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Steps in the Development of American Democracy

By

ANDREW CUNNINGHAM McLAUGHLIN


Professor of History, University of Chicago



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CONTENTS

CHAPTER	PAGE
INTRODUCTION	5
PREFACE	7
I. EMERGENCE OF PRINCIPLES IN THE COLONIAL PERIOD	11
II. THE THEORIES OF THE REVOLUTION: THE FORMATION OF STATE CONSTITU- TIONS.....	28
III. THE CRITICAL YEARS AFTER THE REV- OLUTION: THE FEDERAL CONSTITUTION	53 -
IV. JEFFERSONIAN DEMOCRACY.....	78
V. JACKSONIAN DEMOCRACY.....	96
VI. SLAVERY AND ANTISLAVERY.....	117
VII. DEVELOPMENTS OF RECENT YEARS: INDIVIDUALISM VS. SOCIAL CONTROL..	146
VIII. THE IMPLICATIONS AND RESPONSIBIL- ITIES OF DEMOCRACY TO-DAY	168

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INTRODUCTION

GEORGE SLOCUM BENNETT, a graduate of Wesleyan University in the class of 1864, showed his lifelong interest in the training of youth for the privileges and duties of citizenship by long periods of service as a member of the board of education of his home city, and as member of the boards of trustees of Wyoming Seminary and Wesleyan University.

It was fitting, therefore, that, when the gifts made by himself and family to Wesleyan University were combined to form a fund whose income should be used "in defraying the expenses of providing for visiting lecturers, preachers, and other speakers supplemental to the college faculty," it should have been decided that the primary purpose should be to provide each year a course of lectures, by a distinguished speaker, "for the promotion of a better understanding of national problems and of a more perfect realization of the responsibilities of citizenship," and to provide for the publication of such lectures so that they might reach a larger public than the audience to which they should, in the first instance, be addressed.

6 INTRODUCTION

To give the first course of lectures on this foundation, the joint committee for its administration, appointed by the board of trustees and by the faculty, selected Professor Andrew Cunningham McLaughlin, Professor of History in the University of Chicago, former President of the American Historical Association, who had some months earlier been sent to visit the universities and learned societies of the United Kingdom to set forth to them America's interest in the war and the ideals of democracy which America in common with Britain was prepared to uphold even on the field of battle.

The poignant earnestness which pervades the lectures marks them as the father's memorial to his son who, like many other American college lads, had recently fallen on the field of battle in France that the ideals of democracy might live and prevail.

WILLIAM ARNOLD SHANKLIN,
REUBEN NELSON BENNETT,
ALBERT WHEELER JOHNSTON,
CALEB THOMAS WINCHESTER,
GEORGE MATTHEW DUTCHER,

Committee.

PREFACE

THE purpose of these lectures is not to present the history of American democracy in full and symmetrical outline. If one should enter upon that task, he would find himself writing at length the history of the United States. My purpose is simply to recount a few salient experiences which helped to make America what it is—for experiences create character. And I wish also to describe certain basic doctrines and beliefs, some of which may have had their day, while others have not yet reached fulfillment. Especially I have not attempted to discuss fully and elaborately the problems of democracy as they arose in the generation after the Civil War, but only to show how those problems, in certain essential particulars, centered in the task of regulating the use of property and adjusting the old ideas of personal liberty to the new needs of the social and in-

dustrial order. The problems of democracy have grown thick and fast in the last decade; and these too I have not sought to discuss in any detail, contenting myself with describing the implications of democracy as we now may and should see democracy after a century and more of development and after a war waged for its maintenance and upbuilding.

The lectures were given to the students of Wesleyan University in the spring of 1919. I hope they were of some service and that in printed form they will have some slight value in making clear a few leading facts and principles in American history and politics.

A. C. McL.

University of Chicago.

WESLEYAN UNIVERSITY

GEORGE SLOCUM BENNETT FOUNDATION

LECTURES

For the Promotion of a Better Understanding of National Problems and of a More Perfect Realization of the Responsibilities of Citizenship.

FIRST SERIES—1918-1919

CHAPTER I

EMERGENCE OF PRINCIPLES IN THE COLONIAL PERIOD

It is difficult to begin a course of lectures on American democracy because one does not know where to find a beginning. Wherever he may start in his recital, he is conscious that, before the particular period chosen, forces were at work that account for later conditions. American democracy is, of course, intimately connected with the long effort of Englishmen, even before America was settled, to combat tyrannical or absolute government. I will not, however, allow myself to comment on those origins, but will take up the story with just a word about the transference of English representative institutions to America in the early seventeenth century. The setting up of a representative body in the wilds of Virginia in 1619, that first step in the recognition of the colonists as human beings who were entitled to some word in the management of themselves, is a

12 STEPS IN DEVELOPMENT

salient fact in the history of the British empire, as well as the beginning of American democracy. It is of immense significance as the beginning of a policy of colonial self-government, and thus the beginning not only of the American democratic system but of that far-flung British empire, that union of free commonwealths which, with all its lack of symmetry and legalistic form, is the greatest political structure in the world.

We should notice, however, that this representative assembly was not established by direction of the British government. It was called by the mandate of a corporation, a great mercantile company, similar to other large corporations which were in those days reaching out for the commerce of the world. The use which England has made of the corporation as an agency for colonization and commerce is so extensive that one can hardly overemphasize it; but I am not speaking here of the influence of the corporation charter on the constitutional forms of the colonies, but of the act of the corporation, itself resident in London, in calling an assembly of representatives in Virginia. The

Virginia Company, composed of many prominent men, was divided into two parties: one the progressive and the liberal, the other the conservative and the rigid. The liberals had more in mind than making money from a commercial venture. Some of them were profoundly interested in the very theory of government and so taken up with the pivotal problems of politics that they could not think of Virginia as only a tobacco plantation or a producer of dividends. Though the differences of opinion in this corporation are more evident a year or two after the decision to give to the colonists an assembly of representatives, we can see that at least as early as 1618 the divergent tendencies of the two elements were at work. On the one side was Sir Thomas Smythe, a leading big business man, interested in the various large commercial enterprises of the time. On the other side was a group of young idealists, the leader Sir Edward Sandys. The Smythe faction said that Sandys and his followers were "men of discourse and contemplation and not of reason and judgment."

14 STEPS IN DEVELOPMENT

“Of discourse and contemplation”—mere talkers and thinkers, not active men of business with sound, hard sense. How often have these words been used to describe idealists who were prepared to take a bold step forward and a steady look onward into the future! Sandys was a disciple of Richard Hooker, whom I venture to call the founder of that school of political theory which gained tremendous vigor in seventeenth-century England and was finally embodied in the institutions of the United States. It is a strange and dramatic fact that the man intent upon planting in the wilds of Virginia this first seed from which American constitutionalism sprang, should have actually had in his mind the distinct theories which, as the decades went by, were gathered up in our fundamental law, and that he should have consciously held the very ideals for which Virginians and other Americans fought a century and a half later.¹

¹ I know, of course, that Hooker's theories were not entirely like those that developed in the seventeenth century, but the fundamental fact remains that his statement of the origin of government in consent was of tremendous im-

It is a source of consuming interest and pleasure to hunt out expressions and purposes of political justice and to discover visions of right amid the controversies and more deliberate discussions of a corporation dealing with tobacco and Indians and trade and land grants. Of Sandys it was said that "no man in the world carried a more malicious heart to the government of a monarchie," and that he himself declared "that if our God from heaven did constitute and direct a forme of Government, it was that of Geneva." He belonged, in other words, to that body of believers in the fundamental rights of man who were to become stronger as the century waxed older, were to wage war against the Stuarts, and were finally, at the end of the century, to depose James II because he had broken the original compact between king and people. If he were a real and consistent idealist, Sandys could not

portance in the years to come. I know too that Hooker did not invent this theory, for it was of hoary antiquity when he wrote his Ecclesiastical Polity. But it was he who said, "Laws they are not, therefore, which public approbation hath not made so."

16 STEPS IN DEVELOPMENT

very well refrain from seeking to promote in Virginia his own ideas of political right. For even in Parliament as early as 1614 he had boldly announced the principles of his philosophy. I call attention to these principles not as merely incidental but as an expression of fundamental political theory by one whom we may justly call the first American statesman—an American statesman, though he never lived in America, because he was the founder of representative government in the New World and the propounder of the elements of American political theory. In a speech in Parliament in 1614 he used these words—condensed, of course in the report: “No successive king, but first elected.—Election double, of Person, and Care; but both come in by Consent of the People, and with reciprocal conditions between King and People.—That King, by Conquest, may also (when Power) be expelled.” An expansion of this speech would become a treatise upon the origin of government. Of that we shall have more to say hereafter; but we can see here a denial of the intrinsic or inherent authority of the mon-

arch, an assertion of the origin of kingly power in contract, a declaration of the consent of the governed, an announcement that there were people, and that care for them was the condition of continuing authority, and, lastly, a denial of the principle of passive obedience; for the king that ruled by force and not by right and that did not care for his people could be expelled.

Contenting ourselves with this word of reference to Sandys and the group of liberals who founded representative government in Virginia, let us turn to the early history of the northern colonies. Here, again, we are looking for principles and ideas and not merely for events in the ordinary sense, and I shall select only one or two of these ideas as the most significant. No one can understand the history of New England without some knowledge of church history, and especially the history of the Separatists. In the reign of Elizabeth a few obscure men, amid many concerned with problems of ecclesiastical order, affirmed that a small number of individuals coming together could constitute a church. This belief is to us so self-evident

18 STEPS IN DEVELOPMENT

that it does not appeal to us as more than a dreary commonplace; and yet it is of great moment: a few simple men could found an institution which men had been wont to think of as an institution of vast power and august majesty; it was almost as if they had said that two or three gathered together can form an empire.

The church, as those men conceived it, was an association of individuals; and the individual, free before God and under God, having his own immediate relationship with the divine sovereign authority, could voluntarily join with others and form the church. Those two elementary thoughts I wish most strongly to emphasize, for they will be found running through American history, showing themselves in unexpected places. There is such a thing as an individual, a separate self-determining being; and several individuals, hitherto quite separate and independent, can by covenant and agreement constitute a new entity, a new thing. The creation of something which possessed real character, authority and duty, by the voluntary consent of hitherto detached elements, constitutes one

main pillar of early American democratic theory.

If we had time to study in detail the early history of Massachusetts and Connecticut, we should discover many illustrations of the two fundamental ideas that I have just mentioned. Men's minds turned to contract, promise, consent, as the bases of church organization; and naturally they conceived governmental authority of all kinds as arising in this way. From time immemorial men have inquired—thinking men—how it came about that one man or one set of men have the right to order others to do or not to do. Naturally, the men of New England believed that authority sprang from the entrance of men into the social relation and from contract which they voluntarily made. We find views of political relationship, of ecclesiastical polity and of theology itself, embodying the notion that contract was the source of binding authority. Even if God did not obtain His supreme authority from the consent of men, He, the supreme authority, was Himself in a contractual relationship with man and was bound by His

20 STEPS IN DEVELOPMENT

own promises. Thomas Hooker, the founder of Connecticut, said: "Among such who by no impression of nature, no rule of providence or appointment from God or reason have power over each other; there must of necessity be a mutual engagement each of the other, by their free consent, before by any rule of God they have any right or power, or can exercise either, each toward the other. This appears in all covenants betwixt Prince and People, Husband and Wife, Master and Servant, and most palpable is the expression of all this in all confederations and corporations. . . . They should first freely ingage in such covenants, and then be careful to fulfil such duties."

John Cotton declared: "It is evident by the light of nature, that all civill Relations are founded in Covenant. For to pass by natural Relations between Parents and Children, and violent Relations between Conquerors and Captives, there is no other way given whereby a people *sui juris* free from naturall and compulsory engagements, can be united or combined together into one visible body to stand by mutuall Relation, fel-

low members of the same body but only by mutuall covenant; as appeareth between husband and wife in the family, Magistrate and subjects in the Commonwealth, fellow-citizens in the same cities."

To illustrate at all adequately the expression of these fundamental theories in early New England would carry us far beyond the time at our disposal. Let us content ourselves now with one other elementary belief, and then we shall be able to move on to later times when these theories showed themselves in the struggle of a nation for self-government. This elementary belief was belief in the existence of fundamental law. This conception of unchanging and unchangeable right, this belief that there were certain fixed immutable principles, can be seen in various phases of political thought in England especially in the seventeenth century. On its purely political side, this thought was arrayed against the claim or the pretension to absolute and arbitrary authority in government. In its origin it is doubtless associated with the belief in the unchanging and unvarying law of God which must be superior

22 STEPS IN DEVELOPMENT

to any law of man. Thoroughly arbitrary government, one unlimited in its power and authority, was, thought the English liberals of the seventeenth century, a government disregarding principles of right superior to all human authority. Both sides—those defending the unlimited power of monarchical sovereignty and those denying the rightful existence of such authority—really took refuge in the supremacy of divine will; for one side asserted the divine right of kings and held up the King as the possessor of authority obtained from on high, while the other side set forth the reality of divine law—natural law—binding on all human government and limiting the authority of the monarch himself. Naturally, the New England settlers, the offshoots of English liberalism and Puritanism, believed in the unchanging authority of divine or natural law. A study of the intensely interesting years of Massachusetts' history in the first fifteen years after the founding of Boston discloses, in the little primitive settlements, currents and counter currents that are curiously indicative of the old antagonism between

classes and of the desire of the plain people to bind government in such a way that certain rights and privileges should not be endangered. "The deputies," said Governor Winthrop, "having conceived great danger to our state, in regard that our magistrates, for want of positive laws, in many cases, might proceed according to their discretions, it was agreed that some men should be appointed to frame a body of grounds of laws, in resemblance to a Magna Charta, which, being allowed by some of the ministers and the general court, should be received for fundamental laws." This movement, which arose, be it noticed, out of suspicion of unchecked government, resulted in the establishment of the famous Body of Liberties—a code of fundamental laws, based itself on the Bible, on the principles of English liberty, and on the reason and judgment of its framers.

I would not assert that democracy in any full sense existed in Massachusetts—possibly not even in Plymouth. The early history of the Boston colony discloses clearly a sharp contrast between principles of aristocracy

24 STEPS IN DEVELOPMENT

and a considerable amount of democratic theory in the sense that government ought not to be wholly in the hands of superior beings. The movement from the Bay towns to the Connecticut Valley may have been, as Charles Francis Adams says, only the natural swarming of a people who, seeing the fertility of the charming Connecticut valley, had a "hankering mind after it." But there certainly were diametric differences of opinion between Hooker, the founder of Connecticut, and Winthrop, the leader of the Bay colony. "Matters of counsel and judicature," said Winthrop, ought not to be referred to the main body of the people; "the best part is always the least, and of that best part, the wiser part is always the lesser." Hooker, on the other hand, declared: "In matters of greater consequence, which concern the common good, a general council, chosen by all, to transact businesses which concern all, I conceive, under favour, most suitable to rule and most safe for the relief of the whole." John Cotton—the ecclesiastical rival of Hooker—on the other hand had announced, "Democracy I do not conceive

that God did ordain as a fit government either for church or commonwealth."

We have thus taken a hasty glance at a few incidents in early colonial history and seen the announcement or the appearance of a few primal ideas, which in one way or another underlie American democracy. I am not prepared to say that they are the supporting theories of our present-day democracy even as a form of government or as a body of political theory; but what we know as democracy actually began with the emergence of principles which justified the right of the individual under government, with the assertion that men set up governments and that governments should be restrained by some fixed law; and, for our purpose of perhaps even greater consequence, was the doctrine that men by contract associated themselves into political society. Without mentioning the thought and strivings of the seventeenth century, one could have no background and no perspective for understanding the principles of later democracy, and I have given this hasty exposition to banish the impression that the theories of "

26 STEPS IN DEVELOPMENT

the American Revolution and of the early national period had no ancestry, but sprang full-armed from the brains of the statesmen and pamphleteers of the later eighteenth century. It is well always to remember that the cleavage of the British race took place in the seventeenth century, and, while after the end of that century we find no great outpouring of political theory and it is difficult to trace from written utterance the line of growth, American political principles were those of the century of Pym and Milton and Harrington and Locke and John Lilburne and countless other liberal, revolutionary, and radical leaders who strove for the recognition of man's fundamental rights under government.

Of course mere political theory unattached to the practical and immediate problems of life cannot be very effective. Political philosophy grows out of political and social needs, and is often a result rather than a cause of social action; but the writings of the seventeenth century—real political pamphlets—portray political purpose. And no one could venture to say that the cogent

expression of a theory, even if unattainable in its full force, has no effect in building up opinion, stimulating action and giving direction and coherence to a movement or a tendency. Such beyond question was the effect of the writings of the pamphleteers, poets, and philosophers of the seventeenth century. I must not omit, however, all mention of the fact that the Americans not only illustrated in actuality the organization of political and ecclesiastical order, but, living as they did free in considerable measure from the repressive burdens and traditions of the Old World, were able to feel more strongly than the people of Europe the worth and the right of the individual man. Through the first half of the eighteenth century the development of the American colonists in the practices of self-government gave them a basis for the philosophy with which they approached the problems of the American Revolution.

CHAPTER II

THE THEORIES OF THE REVOLUTION: THE FORMATION OF STATE CONSTITUTIONS

THE period of the American Revolution, from the viewpoint of American political development, may be said to begin with the outbreak of the Old French War and with the attempted organization of the colonies, that they might bear their fair and proportionate share in the defense and maintenance of the empire; it ends with the formal establishment of the American "empire" in the Constitution of the United States—a generation of discussion, agreement, and disagreement, a discussion in which men were thinking as well as talking and writing, and in which certain definite beliefs, the products of thought and talk, found lodgment in basic institutions and in the announcement of cer-

tain elemental principles of political ethics. The period ought not to be called the Revolutionary era, but the creative era of American history. The period is too often divided into two parts, necessitating a division of treatment of cardinal tendencies; the first part (1760-1783) is treated as if the sole object of study was to explain the war; the study of the later period (1783-1789) deals with the discontent and confusion of reconstruction from which came the Federal Constitution. As a matter of fact, through that whole generation men were engaged in the development of ideas which were finally embodied in the State and national constitutions. ✓

The discussions and the perplexities of that generation were concerned with three different problems, which were not always closely distinguished one from the other. The first problem was that of trade and commerce and general economic well-being. The second was that of the authority of government over men: did government have unrestrained authority, or was it limited by the necessity of preserving the life, property, and liberty of the people? The third was that of finding a

suitable structure of empire—at first, the structure of the British imperial system, later the structure or what should be the structure of the American political system as a whole. In other words, this third problem involved in its later phase the task of working out a system of political organization for the United States, for the combination of republics which had been colonies and had emerged into self-governing commonwealths.

Of these problems I shall not discuss the first in any detail. I do not doubt the influence of economic forces in history, the continuing effect of imperial and state financial needs, the unremitting pressure of commercial rivalries between merchants and among nations and States. I do not doubt that in the American Revolution pecuniary advantage often underlay political demands, and that dread of pecuniary loss helped to fashion parties and coteries and especially to create or strengthen conservative and reactionary tendencies. I do not question that wealth, or what then passed for wealth, and poverty, or what then was thought to be poverty, furnished grounds of difference

between political elements and accounted for different political theories. No one can question the unintermittent conflict of interest between classes of society, or at least between grades of economic well-being. But I shall not attempt for the present to discuss these antagonisms or variations of interest, for we may well employ our time chiefly in considering the thought of the time that came to be embodied in actual working institutions of government. For even if we accept the belief—which I certainly do not—that the cause of all movement and all striving is economic discontent or the play of economic force, we may still be permitted to direct our attention to the legal formulation of demands, to the appearance of political formulæ and principles, to the embodiment of those principles in institutions and actual political practices. There is at the present time, in my judgment, altogether too much of a tendency among historians to attribute motives solely to economic conditions. Though the old-fashioned treatment of the Revolution was misleading because of its failure to assess and weigh properly all kinds

32 STEPS IN DEVELOPMENT

of economic antitheses, the fact remains that different principles of government *were* arrayed against each other; and it is quite wrong to imagine that men are not willing to sacrifice material gain for liberty and for the sense that they are not subject to the will of others.

Of course, as far as purely political argument went, it was directed by the Americans against the authority of Parliament in one or more particulars; they argued either that Parliament did not possess the right of taxation because that right belonged to the colonies, as constituent parts of the empire, or because, on general principles of human and British liberty, a body in which they were not represented had no right to taxation. These two lines of argument were not conflicting but mutually supporting. Let us notice here, however, that one of these lines of argument, based on the practices of the old empire, led finally to the establishment of the Constitution of the United States. The argument that the colonies as colonies, as constituent parts of the empire, had an indefeasible share of authority, the actual legal

right to govern themselves in the matter of taxation and internal police, was an assertion that the British empire was not a simple centralized empire but one in which powers of government were distributed. As men by their conscious thoughts and open discussion at least assist in creating social and political order, it may properly be claimed that this method of protest against centralized authority in the empire helped to bring in the federal state.¹ It took a generation of experience, some experimenting, and a good deal of actual discussion and contemplation, before the frame and form of what I venture

¹ The federal state, a system of organization now adopted in many parts of the world, was first put in working order when the Constitution of the United States was adopted. If we view such a state as one characterized by the classification of powers (or authorities) and the deposit of certain powers in certain places, that classification and the theory underlying it grew out of the practices of the old British empire. I mean by "powers" such things as the power to manage the post office, the power to regulate interstate and foreign commerce, the power to handle foreign affairs, all of which belong to the central government, while local commerce, the maintenance of local order, and a thousand other things are in the hands of the *parts* of the system. This whole subject is dealt with in my article on the "Background of American Federalism" in *America and Britain*. (N. Y. 1919.)

34 STEPS IN DEVELOPMENT

to call imperial organization was properly worked out and the Constitution of the United States adopted.

This may appear to you to have nothing to do with the developments of American democracy. But it must be looked upon as an achievement of a free people; moreover, a suitable and viable scheme, whereby things essentially national could be managed by a national government while things essentially local could be handled by the State governments, was an absolute requisite for the stability of democratic institutions, as democracy was then developed; it was necessary for the upbuilding of the spirit and essence of a wider democracy of continent-wide sympathies and loyalties. Furthermore, we are strangely likely to forget in these modern days that local self-government has always been considered a necessary part of democratic government. If in these days of continent-wide nationalism we lose sight of that fact, it should not be forgotten in considering the *history* of democracy. The participation of people in their own immediate government may still, possibly, be con-

sidered an essential quality of the democratic state.

The argument of the Revolution, as we have said, was directed against the authority of Parliamentary government, and, while much was said about the privileges of the colonies as political entities, a considerable part of the discussion concerned the rights of individual men and British citizens. Democracy as it developed in America was long involved in the task of finding suitable restraints upon government and asserting the right to be free from objectionable governmental control. Revolutionary debates began with protests against certain kinds of governmental activity, and for decades men discussed the need of having a limited and checked government if they would be free. James Otis's famous speech on the Writs of Assistance (1761) announced the privileges of British subjects, denied that an act of Parliament distinctly contrary to principles of British liberty was law, and declared that an act contrary to natural equity would be held void by the courts. Little as we know about Otis's statements, we can find in them

(1) the belief that Britain had a constitution sufficiently plain to limit the authority of Parliament; (2) that there was such a thing as natural right beyond the touch of the most august legislative body in the world; and (3) that an act violating natural justice was simply not a law at all.

If Otis's assertions had been quite unique or a mere oratorical pronouncement, they would not merit extended examination or comment; but, as a matter of fact, they exemplify various fundamentals of Revolutionary thought which were made over into American institutions of government and constituted in considerable measure the fundamentals of American democracy. We may notice, therefore, the idea of a constitution, belonging of course to Britain, protecting Englishmen everywhere, something more real, tangible, and effective than the actual constitution such as the people of England then had or do have. The thing most nearly new, though here too, as I have said, Otis thought he found basis for it in British jurisprudence, was that a law contrary to natural law, that is, a law contrary to the funda-

mental law underlying all free government, was not law at all. He did not say that an act violating the Constitution was unjust or unwise or in violation of precedent; *it was not law at all*. The principles of natural justice were, moreover, beyond the reach of government.

We need not say that there was anything new in the argument by Otis; he referred to the declarations of British jurists, and he thought doubtless that he was announcing sober and unrevolutionary principles. The whole Revolutionary theory as far as it referred to fundamental law, principles of natural equity, and the limited scope of government, had been put forth time and again in almost, if not absolutely, completed form by the English rebels of the seventeenth century. And we have already noticed the expression of this philosophy in early colonial times. The importance of Otis's assertions lies in their reality, in the fact that they were to be used in a great political crisis, and that they were to be built into institutions of government, into law, and into the thought of plain

38 STEPS IN DEVELOPMENT

people. In other words, this rebellion in British history was to be effective; it was to place, in actual vital functioning forms, principles for which Englishmen had given their lives. The Americans took these theories and principles of unchanging law and natural justice seriously and used them in carrying on and in carrying through a successful revolution.

Through a good deal of American discussion, as the days went by, ran the line of ideas which we have seen in Otis's speech. It was characteristic of the Americans in their arguments to claim as already their own, as already fully existing, what in reality they were going to produce and make tangible, actual, and active. That is why I have called the period a creative period, though little really new thought came to light; and that is why what we call the Revolution was not a revolution in the destructive sense, though it broke the British empire; it was an upbuilding process, a movement forward, a realizing of principles, an actualizing of ideas.

In what respect did the colonists claim that

they already possessed what in reality they were to make? They asserted the existence of a rigid constitution beyond the reach of legislative power. They declared that in all free states the constitution is fixed and that it was the glory of Britain that it had such a constitution; and this they declared with solemn assurance, though there was not then in the world a fixed constitution of an independent state above and beyond the reach of legislative authority. They denied that an act beyond the constitution was good law at all, but in reality there was no such principle actually in operation, either in Britain or in any other country. They claimed the existence of certain rights of person and property, for the safeguarding of which government was created. They conceived of government, not as possessed of intrinsic and inherent powers, but of delegated power only. They looked upon government as sprung from the free will and expressed wish of the people and subject to alteration at the desire of the people. The task of that generation was to carry forward those assertions till they were taken out of the domain of

mere philosophy or of political controversy and were placed securely in tangible achievement and in actual institutions.¹

It was of immense consequence that the Revolutionary leaders did not ostensibly advocate the overthrow of the old and the well-established. They proclaimed their undying fidelity to the British constitution and unswerving loyalty to the king. Indeed, in early days they acknowledged all "due subordination" to Parliament. They reproached the Englishmen with being the real violators of precedent and of established legal right; the Englishmen were, so to speak, the rebels. The Revolution was thus protected from degenerating into a riotous attack upon all authority, from being merely an assault on what was old, and from losing itself in mere vague denunciation or in the announcement of wild theories. And because it was of this character, it was characteristically a British

¹ The breaking up of the British empire—the Revolution—was a momentous fact; but the ideas underlying the struggle and the establishment of our public law embracing those ideas must be considered of chiefest significance in the history of free government.

revolution and fits into the history of the development of British liberty.

Many times in the course of human history men had discussed the authority of government or the duty of the subject to obey, and in doing so they inevitably turned to the origin of government or the state. And so did the Americans—once again absolutely without inventing new ideas—when they questioned the power of Parliament. While they cited charters, referred to practices and precedents, and set out the British constitution as the basis of their rights, they examined, like the philosophers of old, the source of authority. For if it could be maintained that government was self-created or come direct from the Ruler of the universe, then naturally the government must be obeyed and was beyond the control of the people. The necessity of accounting for the origin of government, as we have already seen, explains the doctrine of the divine right of kings on the one hand and the popular origin of government through contract and consent on the other. Thus, among the foundations of American democracy was this

42 STEPS IN DEVELOPMENT

insistence upon the principle that men made government and made it for their own needs. Such a thought, like many other things I have mentioned, doubtless now appears quite ordinary common sense, and we need to remind ourselves that within these later months our boys have gone to Europe to aid in overthrowing the remnants of monarchical presumption based on the assumption of divine appointment.

The American philosophy supposed a state of nature from which men entered into a state of society or from which they emerged to put themselves under government. There never was a state of nature such as these men supposed, and there never was a social contract which bound men in society and in obligation to authority. But the idea, however historically untrue, was of immense consequence, and it served not alone as a starting point in argument but as a foundation for the constructive work of the period. If we examine this idea critically, we find it used to explain the origin of government and thus to give basis for opposition and, in addition, to furnish a set of irrefutable prin-

ciples. It is very helpful to have a set of absolutes in any political controversy; and they were found by supposing the existence of the absolute man, a detached abstracted man possessed by the law of nature and of nature's God with a few primitive and undeniable rights. These rights, antedating all government, were not to be taken away by the government that was created to protect them. If Parliament set up its unalloyed sovereignty, it could be answered by an assertion that unlimited authority was of God alone, and that man obtained from God and nature the absolute unqualified rights to life, liberty, and property.

May I call your attention again to the fact that all this thinking takes for granted the existence of the individual, that is, the absolute, unrelated man, who existed as an unrelated being before government; he did not become the owner of property because his right to hold it was protected by law; he had a right to it before governments were known. Men did not then say: "You are what you are because of the existence and the operation of the social order; you have what you have

because of the play of social forces; you could have no *property*, you would only have *things*, if by force you could maintain your hold on them, unless there were government and law. You are the creature of a long historical process; and society and state are real things with their own duties and with laws of their own being." Had they thus spoken, they would not have belonged to the eighteenth century at all; such words are modern and do not belong in the field of early American democracy.

All this political theory, all this talk about natural right and absolute man, may not seem to be democracy at all, as you now think of democracy; but I am not describing democratic thinking of to-day or the vague assumptions concerning the content of democracy. I am describing the thinking of a hundred and forty years ago, as far as it expressed itself in political principles. It must be understood before there is place for discussion of the achievements of democracy as a working system in America. Democracy, as we now see it, whether a pervading social sentiment or a form and process of

practical politics, has nothing to do with the contractual character of the social system. We have no "absolute" with which to deal, save that what is wrong is wrong, and we know it is wrong from experience and its wrongness is proved by its production of human misery. Or we may say—and here the historical student would have to agree—we maintain it is wrong because it violates our individual sense of right, and beyond that individual sense, which has been begotten by developing human experience, we know not where to turn for judgment as to what should not be done.

Whether the political philosophy of the Revolution appear very real to you or not, it furnished the basis for the organization of democratic institutions. The Revolution was the process of change from colonies to independent commonwealths; and during the course of the war constitutions were formed and legal governments were established. The leaders of the Revolution had in this task the opportunity to make real their principles of government. John Adams announced that the theories of the "wisest

writers" should be followed, and that the people should raise the whole fabric of constitutional government with their own hands. He meant, of course, that the principles that the government sprang from the people and was the agent of the people should be lived up to in the method of establishing the new government of the American States.

If the theories of the "wisest writers" were to be followed; if, in other words, this philosophy of the origin of government and the responsibility of government to people was to be made real, then the method pursued in setting up the government must be carefully adapted to the theory. Two States alone succeeded in finding a system which was theoretically and completely sound. These were Massachusetts and New Hampshire. In Massachusetts, after one constitution had been presented to the people and been rejected, the people were asked by the Revolutionary government if they desired a constitution, and if they did, to elect delegates to a convention, chosen for the sole and single purpose of drafting a constitution. The people voted in the

affirmative and chose the delegates, who met in convention. The constitution drafted by the convention was submitted to the people, discussed in the town meetings, adopted, and then put into operation. The constitution purported to be a social compact, and it may justly be said that the whole operation illustrated as nearly as anything could the philosophy of contract and the establishment of government on the consent of the governed.

While the establishment of constitutional government was under discussion in Massachusetts, the nature of the whole contract arrangement was presented with amusingly technical and legalistic thoroughness. Theophilus Parsons, writing the *Essex Result*, treats of the nature of the contract almost in the terms he would have used, had he been discussing an agreement between several people for the building of a house or the purchase and sale of a drove of sheep. All and each are bound by their individual promises; but there are certain inalienable rights that no one can contract away. In this constitution and the process

of making it we find the clearest and most explicit exposition of the philosophy of American political democracy, in the days when it reared its first institutions.

As an inevitable consequence from the method followed, as well as from the theories announced, we find these fundamental principles: (1) the individual exists before government exists, and he has rights, a portion of which he delegates to government, that he may protect the rest; (2) the government possesses the authorities bestowed upon it, but is limited by a fixed constitution, established by an authority superior to government; (3) the government is distinguished from the state, and is subordinate to the state. In some respects we have entirely lost sight in modern days of the notion of the individual antedating the state and government; but the distinction between the state on the one hand and the government on the other is the most elementary principle in the American political system. In the sphere of political, as distinguished from mere social democracy or spiritual democracy, it is the first, the most lasting and the

most powerful contribution of democracy to the world.

The Americans had found a method of making a government of their own free will; the constitutional convention, supposed to be the possessor of the authority of the people or the aggregated individuals, has remained our basic institution. They had found a method of making real the dreams of philosophers, poets, pamphleteers, and rebels of past ages. I speak quite soberly when I say that this first signal achievement of American philosophic democracy, this actualizing and practicalizing of theory, was the greatest addition to politics ever made, unless it be the discovery and development of the principle of representation itself.

The thought which I wish to make perfectly plain is this—though I weary you by repetition: the constitutional convention, a representative body charged with the duty of framing a government and enabling the people to lay down fundamental constitutional law, is our primary institution. Its use demonstrates the origin of government in the wishes of the people and makes it clear

50 STEPS IN DEVELOPMENT

that government is possessed of authority granted to it by its superiors, the people themselves. It is, then, the foundation stone of democracy as a political system.

It will not do to pass over the State constitutions or the methods of their adoption and leave the impression that they gave full recognition to the political rights of individual men. The right of a man to have his voice in government simply because he was a man was too radical or too advanced for the thought of that day. The constitutions, therefore, did not provide for universal manhood suffrage; various restrictions and qualifications were imposed. It would appear at first sight that the failure to provide for universal manhood suffrage was a complete renunciation of the philosophy of the Revolution and of the very theory on which the State constitutions were raised. But the contradiction is not so thorough as one might think. While it is true that the constitutions did not recognize the right of every person to vote or to hold office, they did spring from the people, they did rest on consent, they did accept the primal natural rights of man, they

did provide for governments so checked and balanced as to protect life, liberty, and property.

These restrictions on the suffrage gradually gave way in the course of the decades to come; their presence in the early State constitutions is evidence that, however complete was the theory of the origin of governments in Revolutionary days, practical democratic spirit needed to be developed still further before universal manhood suffrage was established. Later on we shall see something of the development of confidence in the masses of the people and the consequent widening of the suffrage.

We have seen the deposit of certain principles in the early State constitutions. My main purpose has been to make those principles very clear and to show you that they were not mere vague theories quite distinct from practical politics; they were of more than mere passing or temporary interest. We still have the philosophy of the American Revolution presented to us as if it were entirely detached; but the truth is, it furnished the content for a considerable portion of

52 STEPS IN DEVELOPMENT

practical political argument against Britain; and it was finally in large measure lived up to in the fashioning of American institutions. You cannot intelligently approach many of the constitutional problems of the present day, if you do not know the philosophy of the early constitutional system.

CHAPTER III

THE CRITICAL YEARS AFTER
THE REVOLUTION: THE
FEDERAL CONSTITUTION

THE years intervening between the surrender at Yorktown (1781) and the adoption of the Federal Constitution (1788) are now commonly called the critical period of American history. To understand them fully we shall need to remember that, in the modern sense of the word, the Revolution was not wholly democratic. But the word "democratic," which I have not as yet attempted to analyze, may contain several quite distinct meanings, and before we proceed further some analysis is necessary. By democracy we may mean individualism, the purpose and desire of the individual to act free from compulsion or restraint; we may mean equality, possibly only equality before the law, possibly social equality in every particular; we may mean mass government, that

form and process of political organization in which the body of the people manage their own affairs. It is quite apparent that no two of these qualities or characteristics are necessary concomitants; in fact, individualism and mass government may prove under many circumstances to be mutually antagonistic.

At the beginning of the Revolution American society was simple as compared with the society of Europe. There were no privileged classes, no expensive and burdensome armies and courts, no serfs, no large body of ignorant peasants. But we should mistake if we imagined that life was entirely devoid of social distinction and utterly without stratification. America had imported in colonial times some of the distinctions of Europe, and life in the New World, which made for independence and equality, had by no means disposed of the Old World notions when the Revolution came. It is difficult, if not impossible, to paint a true picture with a few bold strokes, for one colony differed from another, and one portion of a colony from another portion of the same colony.

The back country, the frontier region, or the part that had just passed through the experiences of backwoods life, was simple in the extreme, and there could be found few, if any, of the social barriers or the social assumptions to be found in the older regions—among the larger towns and cities of New England and in New York or Philadelphia or among the tide-water regions of Virginia or South Carolina.

Devereux Jarrat, writing at the beginning of the nineteenth century—writing, it may be added, with a feeling of regret for the good old times—presents the condition of the middle eighteenth century in Virginia, and those conditions prevailed in some degree from one end of the country to the other, North and South. Jarrat says: “We were accustomed to look upon what were called *gentle folks* as beings of a superior order. For my part, I was quite shy of *them*, and kept off at a humble distance. A *periwig*, in those days, was a distinguishing badge of gentle folk; and when I saw a man riding the road near our house, with a wig on, it would so alarm my fears, and give me such a disagreeable

feeling, that, I dare say, I would run off, as for my life. Such ideas of the difference between *gentle* and *simple* were, I believe, universal among all of my rank and age."

The American Revolution was a democratizing process; it was a step in the development of democracy. It did not spring from the desire of a thoroughly organized public, confident of opinion and power. There was not as yet a sense of the wholeness of the people and their authority. Compared with later days, the times were marked by the absence of homogeneity and social equality. If the governments of 1765 or 1775 or the Congresses that spoke for America had been subject to an alert intelligent public sentiment; if the general attitude of the statesmen and politicians had been that of acquiescence in public desire; if the main body of the people in some real collective capacity, even though devoid of full political organs, had been conscious of themselves as a whole and of their compulsive authority; if the individual man, feeling his essential and full political equality also had felt responsibility—for democracy is much more than protest

by an inarticulated mass of humans—then the American colonies doubtless would have broken away from Britain, but the movement would not have been our Revolution. What we call the Revolution was far more than breaking the English empire. It sprang from the experiences of the Americans in self-government, and it expressed resentment to external control; but internally, within America itself, the upheaval, based largely on the principles of individual liberty and freedom from restraint under government, was a movement for readjustment, marked in some degree by conflicts between classes, and it helped to usher in and to make more real popular power and popular solidarity. It made for a unification of the people, awakened new social sentiments, gave coherence to popular wishes, prepared the way, in other words, for the more fully developed democracy that was to come.

It is so easy for us to be misled, so easy to suppose that the democracy in every sense of the word appeared in final and authoritative form at the time of the Revolution, and that from that day to this we have little

58 STEPS IN DEVELOPMENT


by little lost the old faith and the old condition, that I must stress my assertion that it was the Revolution that made possible the later developments of democracy. I have already sufficiently emphasized the thought that the protection of the rights of the individual from tyrannical use of power was the chief political achievement of the Revolution; its political product was to deposit, in institutions and in authoritative maxims of the law, the principles of individual security for which men had been struggling spasmodically or longing dimly for ages; and in that respect it marks the culmination of an era. Individual liberty was secure, safe at least from the grosser forms of governmental tyranny. But whatever definition we may give to democracy, we now know that it means much more than liberty, precious as that word once was in American history and precious as we may still consider it. And the Revolution did something more than institutionalize doctrines of individual liberty; it released new energies, brought into operation new social forces, helped in breaking down class partitions and old-fashioned class

prejudices, brought home dimly to the common man probably not only a sense of security but of responsibility.

If the thing I have just spoken of could be put into a word, it would be the word of John Jay that it took time to transform subjects into citizens. For after giving just weight to the freedom of colonial government and to the wide participation of the people in political affairs, we must see that matters of state were nevertheless in the hands of ruling classes, and the common man had not come to look upon even his State government as his slave and servant rather than his master. Some time must pass before the common man appreciated what he himself had done, what was the work of his own hand, for he had in reality done more than chain government—he had made it; it was his. If you object to this, by saying that, after all, the leaders had fashioned the constitutions and still held the offices, I could not deny such assertion in full; but at the very least the government in *theory* was not superimposed or self-created. The developments of democracy, dependent, of course as always, on

60 STEPS IN DEVELOPMENT

social and economic changes, were to be marked by a growing sense that government, man's own creation, was not to be feared by its creator but utilized. These developments will be noted as we go on, but it took time for this most essential quality of democracy to show itself.

 In the days after the war individual freedom rather than political responsibility was most in evidence. We have seen that the Revolution in its beginning was conservative and preservative; as far as argument and doctrine were concerned, Revolutionary leaders did not denounce the institutions that the past had produced; men gloried, or said they did, in the fundamental principles of the British constitution and objected to innovation. But wars, especially revolutions, lead naturally to distraction and to revolt against established conditions. And so after the war we find the Revolution entering upon a new phase, in which men questioned the validity and worth of the existing order of things. People were passing on to more advanced and more radical ideas. Those notions which afterward came to their full fruitage

in the French Revolution displayed themselves after our Revolution: the world had drifted away from a state of primeval simplicity and bliss into a condition of bondage and unhappiness; nature, in which men were free, happy, and unhampered, had disappeared, and in its place had arisen unnatural and unnecessary burdens, trammeling the soul, body, and spirit of man. Had America actually been loaded with the weight of European governments, armies, privileged classes, and economic impositions, this thinking might well have ushered in a spasm of revolt and destruction; but even as it was, there were disorders which filled the sober-minded with anxiety. At the present day we know something of the demoralizing effects of war; or, if you do not like the word "demoralizing," we know something of how forgotten or half-recognized forces are released, and how, as the days go by, the great deeps of human passion are stirred.

In 1776 Tom Paine had written a famous pamphlet, *Common Sense*, with the purpose of stimulating the Americans to assert their independence of Britain. And after the war

a good deal of Paine's philosophy was openly proclaimed. His aphoristic and brilliant style appealed strongly to the intelligence and passion of the average man. "The palaces of kings," he wrote, "are built on the ruins of the bowers of paradise." "Government at its best is a necessary evil." If this is so, why not return to the primitive and blissful condition when governments did not trouble and the weary were at rest? At the very least, if government is an evil, it ought to be reduced to a minimum; if men were only innocent, there would be no need of government at all. Such thinking might well bring on a new revolution in which men would seek to overthrow government and base a new system of society on speculation, if there were to be any system at all.

But despite turbulence and disorder in some of the States, and uneasiness in all, the new revolution did not come. The disorders and the vague restlessness did not result in the destruction of government; on the contrary, the conservative and propertied classes of society were stimulated to reject the vague though influential theories that were

in the air and to work for a substantial government. "Good God!" ejaculated Washington, speaking of the dangers of the time. "Who, besides a Tory, could have foreseen, or a Briton predicted them." "We find that we are men," wrote Knox, "actual men, possessing all the turbulent passions belonging to that animal, and we must have a government proper and adequate for him." The time had not yet come when men could be relied upon quietly and placidly to obey the simple laws of peaceful and unoffending justice, and instinctively follow their inclination to be virtuous, and to seek their own good and that of their neighbors. Washington was undoubtedly right for that age of the world, if not for all, when he said, "Experience has taught us that men will not adopt and carry into execution measures the best calculated for their own good, without intervention of a coercive power." There is no doubt that the uneasiness and the vague idealism—products of the war which had dislocated the social and the economical order—were endangering the institutions of the newly formed States, unsettling the founda-

tions of those very systems and forms of government, which may from our point of view have been far from perfect and far from the last word in democracy, but certainly marked a great stride forward in democratic achievement and free political condition.

The danger that the new liberty would degenerate into mere license prompted the conservative elements of society to work for an effective national government. Why the disorders in the States as separate parts of the Union should cause men to turn to the need of national organization may not be fully apparent; but men justly believed that, even for internal peace, the "firm league of friendship" between the States, the old Confederation, must be strengthened and vitalized. And so, in part because of conditions of unrest in the individual States, the Federal Convention was summoned (1787) and the Federal Constitution was framed to promote justice and to secure domestic tranquillity.

The social unrest and the disorder that threatened the stability of State governments account for certain portions of the

Constitution of the United States. It authorizes the national government under certain circumstances to suppress insurrections; it forbids States to issue bills of credit—paper money—or to invalidate contracts. These provisions in the Constitution were not, however, the main purpose of the Convention. The members of that body believed, as apparently most intelligent citizens did, that union was necessary, and they believed that the government of the new union must have actual authority and powers to carry out the ends of its establishment.

We must see, then, that the great step in democratic development after the adoption of the State constitutions (1776-1784), was the establishment of the federal system. Some there will be, of course, who will say this was not a step forward but a step backward. I believe it was a step forward toward the realization of democracy. But if it was not forward, it certainly was of much significance in the history of democracy. Democracy simply could not go on in isolated, uncooperative commonwealths; there had to be a government of nation-wide au-

thority to make treaties, control interstate and foreign commerce, settle controversies between States, and secure domestic peace. In short, for the safety of democracy itself there must be a solution of the problem of "imperial order"; and a solution was found which provided, not for centralization and complete consolidation, but for the maintenance of the States. The success of democracy in America depended on the organization of a widely extended union; without union based on general authority we should have had a number of national States, each suspicious of its neighbors, and all in danger of conflict and turmoil. Cooperation is the very essence of democracy.

To what extent was the Constitutional Convention of 1787 a reactionary body? No one can answer that question with a single sentence, or probably with many. It certainly was not filled with a lofty purpose of throwing open to the masses of the people fullest opportunity to do what they willed. But those that now criticize the Convention for not doing this are actually asking for a realization of modern democracy and are

complaining because the full content of what we now call democracy did not then exist. Although in the years before 1787 the unfortunate and the distressed clamored for relief, and although there were demands that the government do something for the poor by issuing paper money, it is safe to say nevertheless that the general idea, high and low, was that governments must be restrained lest they interfere with life, liberty, and property. Those who exclaim against the framers of the Constitution because they did not provide for a highly elaborate democratic paternalism and establish a government quickly responsive to popular wishes, a government which could and would interfere with property, with freedom of contract, and with many other freedoms which are named in recent discussions, may be right in their laments, but are certainly not speaking historically. The truth is that the demand of those days was for a government that could not act beyond certain limits. If the average man had been assured in 1788 that the new Constitution and the new government gave perfect assurance that he would

not be interfered with, his fears would have been assuaged completely. It was tyranny of overhead government which he feared. When the Constitution was presented to the States for adoption, it was assailed because it did not contain a bill of rights or because in other ways it appeared to endanger individual liberty; men did not complain that it prevented the masses of the people from having their way and prevented them from controlling industry and regulating the use of property.

Furthermore, it is only an exaggeration to say that there was not a people—an exaggeration which helps, I think, to bring out the truth. There were, of course, many persons, some four million, including black slaves; but we mean by the word “people” much more than this; the emergence of a people, conscious, authoritative, self-reliant, was to come later in the development of democracy. I shall not attempt here the almost hopeless task of saying what you and I mean by “people.” I can only say that one necessity of full-fledged democracy is social and psychological solidarity; there must be a

certain consciousness or at least the actual presence of what may be called common will. Those qualities of democracy did not exist, or were only beginning to exist, and, in fact, were helped into reality by the endeavor to build up government, even if that government was to be a government so checked and balanced and hampered that it could not readily respond to sudden desire. Whatever I mean by "people," I do not mean the poor or the distressed as distinct from those that were not. A democracy, that distinguishes into classes those that have property from those that have not, is not a full democracy, even if the mass of the poor have full sway in politics.

The framers of the Constitution were rich men. That fact has been elaborately established by Professor Beard. Government even in free America—and free it was in almost every respect as compared with Europe—had always been in the hands of the well-to-do. The ownership of property was not considered a sin or a social offense in those days. From the time of Calvin, not poverty and beggarly raiment, but thrift and

prosperity were supposed to be evidences of divine favor. The Revolution had been begun and carried through to protect property as well as liberty. "Mr. Locke says," wrote Samuel Adams in 1772, "that the security of property is the end for which men enter society; and I believe Chronus will not deny it; whatever laws, therefore, are made in any society, tending to render property *insecure* must be subversive to the end for which men prefer society to the state of nature, and consequently must be subversive of society itself." No one probably will accuse Sam Adams of pleading for the spoils of the predatory rich, for the story is told of his friends' having to buy him a suit of clothes that he might appear decently clad before the Continental Congress. Such primary facts as these are often forgotten by those who criticize the Constitution. I am not attempting to defend this respect for wealth, or the political theory which tended to support and protect property, as ideally perfect; I am only giving the facts.

We must not conclude, however, that there was no envy of the rich, or that the rich did

not fear the rising tide of restlessness. Some persons were anxious because they saw a tendency either to bring in a state of unalloyed disorder or to use the State governments to attack property and decent private liberty. It is always easy to strike off a few sweeping generalities in description of a big movement, but I shall not allow myself to indulge in that agreeable dissipation. An examination of the debates of the Convention shows so many shades or varieties of opinion that a general statement is more than usually perilous. Some members believed that America was suffering from an excess of democracy; and, if Daniel Shays and Luke Day and Job Shattuck were democrats, America was thus suffering. There was little or no belief in the unlimited capacity of the plain people to manage their own government. There was a belief in certain natural antagonisms between rich and poor and in the continuous presence of interests which were apt to be in conflict. But that the men of the Convention were plotting to sustain riches at the expense of poverty or to give the rich a peculiar opportunity to oppress the

poor is simply not a fact. Faith in the political capacity of the great mass of the plain people did not exist among the plain people themselves. But the great problem before the Convention was not to protect riches or to hold the masses in check; the task that occupied time and attention, the one that aroused heated discussion and provoked men to anger, was the task of organizing a federal state, disposing of the suspicions between the existing commonwealths, finding a solution of that old problem of imperial order which had been vexing men and disturbing political equilibrium for a generation. The main task, in other words, was to form the United States.

There was no reaction in the Constitution itself from the tone and the content of the State constitutions. Indeed, when we consider the experiences of the decade preceding the Convention, it is surprising that there was not a decided reaction. The Constitution did not lay down qualifications for voting, leaving that to be decided by the States; and there were no religious or property qualifications for office-holding such as the

State constitutions provided. A provision that men should have property to vote or that they should be freeholders would not have been a severe restriction on the free use of the ballot in America a hundred and thirty years ago; but even that restriction was not inserted in the Constitution.

But, it will be said, a large number of the members of the Federal Convention were owners of public securities. In these days possibly it may be looked upon as no mark of iniquity that a man owns a Liberty Bond. In short, the ownership of securities might be a mark of patriotism and faith in the government quite as much as evidence that a person was trafficking in the public securities. It may be—who can say?—that such ownership tempted men to strive for stable national government and is a proof of economic influences in history. But the men of most real influence, the real framers of the Constitution, appear to have held an insignificant amount of public securities.

When the Constitution provided for the peaceful judicial settlement of controversies between two or more States was it a step

forward in democracy or only an achievement which made a fuller democracy possible in the days that were to come? In these latter days, when courts are under fire or have just emerged from the smoke and din of heated public discussion, the truth may be obscure or unattractive; but the calling of the judiciary to settle disputes between States which had been sovereign and retained, or thought they retained, a portion of their sovereignty, is a notable fact. I find it hard to distinguish between the development of the sentiment of democracy and the creation of things which made peaceful and respectable democracy possible; but if I may be allowed this digression—if it be a digression—I will content myself with saying that democratic government was on the whole furthered by the extensive judicial organization which the new government provided for. Democratic States were henceforth to submit their disputes to peaceful adjudication.

This naturally brings up for consideration the much-discussed question of the power of a court to declare a law unconstitutional. This power sometimes has been spoken of as

a usurpation, and is to-day often denounced as undemocratic because it does not allow the people to obtain immediately and without restriction everything they may desire. "This body was intended," says a recent writer, "to enable a small body of jurists, nonelected, but appointed for life by an indirectly elected President and an indirectly elected Senate, to set aside through a nullifying interpretation or upon the ground of unconstitutionality any federal law, approved by a majority, as well as any State law or State Constitution." Though such a statement at first sight appears to be wholly true, it certainly conveys a false impression. First, it is an open question whether the framers expected that the federal courts would have the power to declare an act of Congress void, though probably they did expect it; second, such a power exercised over the States and their constitutions was not primarily to safeguard property or give privilege, but to preserve the Union, for the courts were bound to refuse to recognize as valid State acts violating national acts or the national Constitution; third, as far as the

courts should exercise power at all in the way of refusing to recognize acts as good law, such power was intended to preserve the Constitution, the fundamental law, the people's law, and to prevent government from interfering with individual liberty; fourth, the care of the Federal Constitution was assigned primarily to State courts.

There is no use in trying to understand the developments of democracy without seeing its beginnings in opposition to government. In the State constitutions and in the Constitution of the United States, the people found realization of the old demand for a fundamental law which was above and beyond the reach of government; and the exercise of this power by the courts was in accordance with this belief that, because of the peril to human liberty, governments must be limited. It is an exact perversion of fact, a misinterpretation of the whole historical situation, to assert that a few men or a cunning minority, when the federal judicial system was established, were hunting about for obstacles to put in the way of a hungry populace.

Laws were first declared void by the State courts; no State constitution gave such power in so many words to the courts. The power was exercised by the judges because they were determined to regard the State constitution as law, simply as law springing from a source superior to government and thus superior to any act passed by government contravening the constitution. If one knows anything at all of the thought and activity of past ages; of how men fought against tyrannical arbitrary government and sought to put restraint upon it in order that they might be free or have a larger share of liberty; if he knows how philosophers had written of fundamental law and the necessity of recognizing its full effect in the state; if he knows, in short, anything of the development of individual liberty, he will see in this power of the courts not a conspiracy against democracy, but the culmination of a long struggle for liberty against arbitrary government.¹

¹ It should be noticed that I am not asserting that courts should exercise this power or denying that they have used it too freely; I am saying that if you approach this subject historically it should be treated historically

CHAPTER IV

JEFFERSONIAN DEMOCRACY

WHEN the new Constitution had been adopted and the new government established, the Constitution became almost at once a battle-ground of argument. There were doubtless many who were localists in sentiment without much, if any, national patriotism. These men on the whole did not, however, seek to overthrow the Constitution, but rather to resist the extension of governmental authority. Fundamentally the antagonism was between those that feared strong government and those desiring effective administration. Those opposing the plans of Hamilton and the growing power and capacity of the national government were not primarily defenders of State rights or State sovereignty for its own sake; they were defenders of personal liberty. Their

leader, Jefferson, was actually solemnly in earnest when he struggled against what he considered the monarchical plans of the Federalists, and when he objected to the extension of executive authority. All the way through that decade of opposition, he was intent upon saving the people from the burdens of elaborate government. He had not forgotten or proved false to the sentiments that he had earlier uttered when he declared he would as leave have newspapers without government as a government without newspapers—only an extravagant way of saying that unrestrained intelligent liberty was as good as despotism and ignorance.

In the years of Washington's and Adams's administrations, that is, in the first twelve years after the adoption of the Constitution, political parties were forming. Recently there has been discussion among scholars and radical disagreement as to whether there were parties in Washington's administration or not. To some extent these differences of opinion might be reconciled if there were thorough agreement on the definition of a

party. But we are safe in saying that parties were forming and acquiring consistency. Moreover, thoroughly safe is the assertion that one of those parties was conservative and the other radical; one wished order, system, guardianship of property, a care for the sober commercial interests of the nation; the other, with a less obvious and tangible program, feared the extension of authority and was filled with a vague distrust of the new government and some of the men that held the reins. The difference, as far as it was a matter of sentiment or general inclination—and it was largely such a matter rather than mere opposition to men or measures—is best illustrated by the attitude toward the French Revolution. To one class of men the new freedom of France, all the release and the relief that the overthrow of the old régime signified, was hailed with joy; to others the Revolution bore a sinister aspect; it strengthened and deepened their instinctive conservatism and heightened their dread of the leveling ambitions of the mob. Here in America as elsewhere the antithesis was that between Tom Paine's Rights of Man

and Edmund Burke's *Reflections on the French Revolution*.

The new government was put into operation and guided through its youthful years by men of conservative instincts, constructive capacity, and administrative skill. It was no small task to put the new government on its feet and to make it a reality. For that work the Federalist party will always deserve approbation from those who continue to believe that stable government and a well organized Union are requisite even for developing democracy and who do not look forward to a society without government, though burdened by newspapers. But when all is said we must acknowledge that the conservative party was based on principles of political ethics that were soon cast aside and that for a hundred years past no one would call distinctly American. There was a real effort, and for a time a successful effort, to manage governmental affairs on the principle of assumed superiority of a ruling class. The system and underlying sentiment embodied the belief that government was safely intrusted only to the few, and that the many

should be thankful for salutary and efficient administration. If the common people under satisfactory restrictions would exercise their right to choose their rulers, they should leave the matter of government to the rulers so chosen and not bother their heads about incomprehensible problems of government and politics. It was all rather British in tone and temper than American; and by this, of course, I mean it represented a condition which obtained in Britain in the eighteenth century and through many decades in the nineteenth, and it was quite at variance with the spirit of the America that by 1800 was coming to realization of itself—the America that would resent the whole notion of the need of guidance by any class of superior persons. It is needless to say that the system of overhead management soon broke down. Never perhaps in our history has there been entire absence of management of the people by “superiors”; but never after 1800 was there much, if any, hope for a party or a group who allowed this sense of superiority to be utterly apparent.

With Jefferson's administration, which be-

gan with the opening century, we enter upon a new era. He always referred to the election that overthrew the Federalists and brought in the Republicans as the "Revolution of 1800." It is perfectly true that, if you scan the government documents, you will find no evidence that a marked change had come in the republic, and that it had turned its back on an old order and was facing a new dispensation. But Jefferson was quite right. The old theory of the Federalists, which was in practice that of high-minded and benevolent toryism, was banished never to return in American politics. Not at once were the effects seen, but Jefferson was the prophet of the coming democracy, the fully determined, fully armed, fully self-trustful democracy of the New World. If one should judge a political society by its laws alone, one might at times have great difficulty in distinguishing between a monarchy and a republic; but it is not alone by the statute book, but by the countless reactions of life that one judges of the reality of monarchism and democracy.

There is an old story that Thomas Jeffer-

son, like a simple country gentleman of Virginia, rode his horse up to the Capitol, tied it to the fence, and walked up to take the oath of office as President of the United States. Henry Adams in his *History* has proved this legend to be false; but it must be preserved because it is an allegory more useful and contributory to truth than if it were a verified fact. The new era was thus ushered in by one who disdained the panoply and display of official authority. He came as a man from men to enter as the servant of the people on the tasks of high office. By every criterion, it is true, he was himself a gentleman, and it is true that in most particulars the new administration was not ostentatiously subservient to the masses of the people. Some years must still elapse before the full power and spirit of American democracy was manifest. But Jefferson's allegorical appearance at the Capitol heralded the day of simple, unassuming manners and of unaffected democratic faith. It is often more important to know what men believe than to know what actually happened; it makes no real difference whether

Jefferson walked or rode; the tradition of his simple and unostentatious arrival is important.

We are reminded by the learned historian of the period, Henry Adams, that perhaps dress should never be considered a trifle. We cannot, for example, picture Alexander Hamilton save as trim, neat, primly and almost exquisitely attired; for we think of him as the foe of all untidiness and disorder; and George Washington's careful directions, which he sent at one time to his London agent for the purchase of clothes, assures us of what we should otherwise be confident of—that this man, vigorous, strong, and inherently virile as he was, was arrayed with careful consideration for the dignity of his position and the dignity of himself. Taine tells us that about the time of Elizabeth's reign the courtiers gave up the shield and two-handled sword for the rapier. "A little, almost imperceptible fact," he says, "yet vast, for it is like the change which, sixty years ago, made us give up the sword at court to leave our arms swinging about in our black coats."

The picture, then, of Jefferson, as it has been left for us, is of considerable consequence; and I allow myself the privilege of extended comment because the personality of this man has been of tremendous consequence in the development of American democracy, while around his name have gathered legends, principles, and sentiments for which he in his own proper person was probably only slightly responsible. "Jefferson is a slender man," wrote Senator Maclay, of Pennsylvania; "has rather the air of stiffness in his manner. His clothes seem too small for him. He sits in a lounging manner, on one hip commonly, and with one of his shoulders elevated much above the other. His face has a sunny aspect. His whole figure has a loose, shackling air. He had a rambling, vacant look, and nothing of that firm, collected deportment which I expected would dignify the presence of a secretary or minister. I looked for gravity, but a laxity of manner seemed shed about him. He spoke almost without ceasing, but even his discourse partook of his personal demeanor. It was loose and rambling; and

yet he scattered information wherever he went, and some even brilliant sentiments sparkled from him." The secretary of the British legation described Jefferson as he appeared a few years later. "He was a tall man, with a very red, freckled face and gray, neglected hair; his manners good-natured, and rather friendly, though he had a somewhat cynical expression of countenance. He wore a blue coat, a thick, gray-colored hairy waistcoat, with a red underwaistcoat lapped over it, green velveteen breeches with pearl buttons, yarn stockings, and slippers down at the heels—his appearance being very much like that of a tall, large-boned farmer."

We can picture this man, who for eight years occupied the Presidency, moving about the White House in this negligent attire, sitting or lounging in an awkward fashion, and, despite a certain rustic shyness, talking with brilliance and suggestiveness on all matters of human interest. In some way, we know not just how, he made a deep impression on the men about him; he was their leader, they his intellectual disciples. That

he had talent for shrewd political leadership and even for a sort of political management is true; but the assertion does not materially serve us in understanding the influence of his personality. The wealth of his intellectual interests, some unexplained charm in his unaustere presence, some contagious quality that is found in all men who have more than mere direct driving power, won men and gave them strength. The chiefest reason for his influence, and the chiefest reason for our still speaking of Jeffersonian Democracy, was doubtless the fact that he was in the original sense of the word a prophet—one who speaks for another—one who instinctively represented the spirit, the developing spirit, of the masses of the people who were as yet but half conscious of themselves and but half conscious of their own visions.

His face wore a sunny aspect; querulous at times and over sensitive, he nevertheless preached and practiced the doctrine of faith. It is thus that in the person of Thomas Jefferson we see the embodiment of certain radical and essential elements of any democracy which deserves the name; for, first and

last, his¹ philosophy was the philosophy of hope built upon confidence in men and upon assurance that if given opportunity they would rise to as yet unattained heights. ²Assurance that men were capable of self-government, or mere reliance, in theory at least, on the belief that the main body of the people were the safest custodians of power, was not the sum and substance of his philosophy; he looked forward with a clear and hopeful eye to a *developed* capacity and a recreated strength. If we have grown cold, calculating, distrustful, in these modern days, questioning the validity of our own selves, such was not the mood of the orthodox democracy of which Jefferson was the seer. The American democracy of the nineteenth century may have been assertive, intellectually untidy, heedless, and devoid of neat administrative capacity; but it was not bedraggled in spirit, sullen, or hopeless. Call it what you will, it cannot be denied the quality of cheerful confidence. It may have speculated and even gambled light-heartedly with fate; it may, as Kipling says, have matched with destiny for beers; but the

democracy that was beginning under Jefferson's eyes did not lack faith in a benevolent future. The face of American democracy wore a sunny aspect.

It is not enough, therefore, to think of Jefferson or of Jeffersonism as the spirit of individualism. He believed, it is true, in the natural force of native vigor which had been so long restrained by the complexities of elaborate superimposed systems; he resented the heavy hand of government and believed men should be free to manage their own affairs. The elaborate restraints which appeared in the social and political order of Europe he considered artificial burdens on the native desires and instinctive capacities of men. But his philosophy was much more than negative; it included faith in progress. And so, even the word "opportunity," often used as the central token of American democracy, is not quite sufficient if it signify only that men should not be restrained or that every one should be given the chance to find his own level; Jeffersonism included belief in man's moving on to a higher level. It was not only the thought that men had the

right to free action, but faith that the result would be progress.

I do not know anything in Jefferson's thought that implies the necessity of equality. He believed in the equality of such opportunity as men might have if all were free and unoppressed; he did not believe in a mere unvarying level of attainment or of social recognition. It may be that we apply to him a faith stronger than his own words justify; and this is not wholly wrong, for any man acquiring leadership has always in him more than his exact words logically imply. But, rightly or wrongly, Jefferson suggests to me an appreciation of the creative energy of freedom. It is a quaint faith, this faith, that freedom is more than the negation of restraint, and that in its very self it is productive; but if quaint and without substantial verification, it is a wholesome faith and not altogether without foundation.

It will thus be seen that, by the time Jefferson came to the Presidency, the people had passed or were beginning to pass from one condition of democracy to another. It

might almost be said that the old condition was not democracy but liberty; it was in the main content with ending or nearly ending that old struggle of man against government, the contest between liberty and power. And if we are thinking at all in the terms of modern triumphant though dissatisfied democracy, we find that it is by no means an intimate associate with mere freedom from restraint. Jefferson, it is true, was solicitous for liberty, for freedom of thought and action; much of his thinking was directed to the task of opposing the development in America of an active, expensive and oppressive government; but with 1800 we certainly see signs of the democracy of affirmation, not merely negation, the democracy of a growing masculine faith, though it was not yet ready to express itself in demands for governmental activity. For the first time we feel confident that we are coming into contact with more than any theory of governmental organization; we find ourselves thinking in terms of the spirit of a people. We discover those traits of character or the beginning of those inherent qualities which were to be

more fully manifested in the decades ahead.

Knowing as we do that in Jefferson's time the Constitution was not strictly construed, that he purchased Louisiana, that he fathered the embargo, that in other ways the government actually grew stronger, we may think that the democratic revolution of 1800 had no real significance. To correct this impression let us turn to the laments of the disconsolate New Englanders, who believed in the Federalist syllogism of "democracy, anarchy, despotism." They believed that the end of a decent and self-respecting world was at hand. "The great object of Jacobinism," said Theodore Dwight, "both in its political and moral revolution, is to destroy every trace of civilization in the world, and to force mankind back into a savage state. . . . That is, in plain English, the greatest villain in the community is the fittest person to make and execute the laws. Graduated by this scale, there can be no doubt that Jacobins have the highest qualifications for rulers. . . . We have now reached the consummation of democratic blessedness. We have a country governed by blockheads and

knaves; the ties of marriage with all its felicities are severed and destroyed; our wives and daughters are thrown into the stews; our children are cast into the world from the breast and are forgotten; filial piety is extinguished, and our surnames, the only mark of distinction among families, are abolished. Can imagination paint anything more dreadful on this side of hell?"¹ Such was the wail of the conservatives who loathed the prospect of democracy, and who believed that to them and men of their ilk should be left the task of maintaining order and deciding what was good for the people. Some writers of recent days have spoken as if intolerance were the inevitable mental attitude of democracy, which must be ignorant, narrow-minded, and bigoted. A study of autocracy or toryism, the cult of assumed superiority, will show that bigoted intolerance is its logical progeny. And this is so because an intolerant exclusive democracy is false democracy; whereas true toryism is based on the assumption of superiority, on a supposed

¹ Quoted by Henry Adams, *History of the United States*, vol. I, p. 225.

monopoly of wisdom, and on a spirit of exclusiveness shutting out the incursion of ideas from without.

"The obstinacy of the race," says Henry Adams, in commenting on the New England intellectuals, "was never better shown than when, with the sunlight of the nineteenth century bursting upon them, these resolute sons of granite and ice turned their faces from the sight, and smiled in their sardonic way at the folly or wickedness of men who could pretend to believe the world improved because henceforth the ignorant and vicious were to rule the United States and govern the churches and schools of New England." Years had to pass before the more stalwart New Englanders looking resolutely and hopefully forward, were ready to warm themselves in the sunlight of the new century.

CHAPTER V

JACKSONIAN DEMOCRACY

So far I have from necessity discussed the developments of American democracy with not more than slight reference to certain elementary things; I have scarcely mentioned the natural conditions or the physical environment in which the American people were living. We must now for a moment turn our attention to these fundamental conditions which were creating and shaping, in very marked degree, the character, institutions, and capacity of the people. They owed much to the principles of English liberty; they owed much to their practical experience with free or half-free colonial government; they were influenced by many other circumstances of their upbringing in America; but chiefly they were influenced by the opportunities of an open continent, by the abundance of cheap land, by life in a new country where social rigidity could not by

the nature of things be scrupulously maintained. While they were changing the wilderness into farms and villages and were ever pushing on into the back-country, they were creating within themselves qualities that we call the essential or characteristic qualities of American democracy. This democracy developed and asserted itself in a country not geographically narrow and restricted, but one offering opportunities for expansion and tempting men to new enterprises in the wilderness. "The agency," says Godkin,¹ "which in our opinion gave democracy its first great impulse in the United States, which has promoted its spread ever since, and has contributed to the production of those phenomena in American society which hostile critics set down as peculiarly democratic, was neither the origin of the colonists, nor the circumstances under which they came

¹ Godkin, *Problems of Modern Democracy*, pp. 30, 31. The general subject of the influence of the frontier and the West has been amply and wisely treated by Professor F. J. Turner in his *Influence of the Frontier in American History*, (*Annual Report of the American Historical Association*, 1893); *Rise of the New West*, and various other articles.

to the country, nor their religious belief, but the great change in the distribution of population, which began soon after the Revolution and which continues its operation even to the present time."

Under frontier experiences the American democracy developed. Doubtless the very extent of the country and the industrial opportunities it offered served in some respects to delay the growth of social problems such as came to the peoples of Europe before 1860 and also helped to delay social legislation and organization which modern democracy craves. Not until after our Civil War did we begin to be conscious of the problems growing out of complex social structure begotten by machinery and the factory system; and not, indeed, till toward the end of the nineteenth century did those problems begin to loom so large and press for solution so persistently that the political leaders and the main body of the people were thoroughly aware of their existence. Almost till the beginning of the twentieth century, as we shall see later, the sum of social wisdom appeared to consist of reliance on the freedom,

opportunity, and open competition characteristic of the earlier simple system of society.

What were the natural influences of the frontier and how did it shape or create character or capacity? A man living on a clearing in the forest or on an isolated prairie farm, intent upon winning a living for his family by his own hard work, wresting a livelihood from nature in her untouched primitive conditions, unaided or unhindered by social conventions, naturally develops certain qualities and aptitudes, and an attitude toward life. If in addition we consider the very fact of the untamed wilderness and the vast opportunities of a continent which appeared to offer boundless resources, we find those fundamental influences which have shaped American society most deeply and given it color. We are safe in assuming, especially those of us conversant with Western life of only a few decades ago, the intimate connection between national character and the American wilderness; we are convinced that the frontier had a large share in creating the temper of our

100 STEPS IN DEVELOPMENT

people and the character of our social and political life.

The frontiersman is and must be self-reliant, because there is no one else upon whom he can rely. He is an individualist in a way, because he depends upon himself and naturally resents interference with his own particular job, though there is no need of a highly developed philosophy of individualism because he has no ground in his experience for fearing the tyranny of a superimposed government or social order. He must have deftness and skill in meeting emergencies, such emergencies of a practical character as arise from his environment; and he must overcome with his own inventions and his own vigor the obstacles which nature presents to him. He has no conception of the problems presented by an intricate and complex social order and is prepared to have little patience with such perplexities if they arise. Technical knowledge in fields of human endeavor beyond his own experience does not arouse his enthusiasm, especially if such knowledge comes from books. What he calls "theorizing" is the most useless of

occupations. He respects originality, especially an originality that enables a man to get on with his job, and he pays marked deference, thoroughly self-reliant and steadily poised though he be, to the self-made man, one who has succeeded by dint of personal effort, by shrewdness, even by "smartness," in doing what he himself and all his neighbors are trying to do. He can see no fault in his neighbor's becoming rich or reasonably well-to-do if the neighbor has played the hard rough game fairly. He even admires a rude and dominating vigor, a rugged strength not altogether gentle in its applications, for softness is the one thing he instinctively abominates. No particular respect for traditional habits or conventions holds him, because he has left the land of tradition behind him; as tradition cannot help him, it is promptly forgotten. The past means little or nothing to him; the future, and the future only, is his. Taine, speaking of the men who centuries ago built up and defended the old kingdom of Europe, points out that such men as had qualities of real leadership and possessed physical and

mental vigor were the founders of noble families. "They had no need of ancestors," he says; "they were ancestors themselves." So it was with the frontiersmen of America, the founders of the American States. Not respecting tradition, as social questions arose, they were ready for the new and untried; recognizing themselves as self-created, the creatures of no past to which they were beholden, they did not realize that they were founding traditions and practices of great moment for their posterity. Though the man of the West, wherever the West might be, was thrown on his own resources and lived largely apart from men, he was not sullen, morose, selfish, or unsociable.

I have said that the frontiersmen, or those just emerged from the most primitive conditions of the back-country, did not build methodically for a future because they recognized no debt to the past. Everyone, save the inevitable shirkers and slackers, was toiling not simply to live but to get on in the world and to better his condition. Inspired by what he saw even in the rude beginnings, stimulated by the opportunities that lay at

his hand, watching the rapid transformation of the wilderness into farms and villages, glorying in his own power and his own freedom, conscious of his own strength, he saw visions and dreamed dreams. The frontiersman was instinctively an idealist. He pictured a coming time, not far remote, when the glorious future of his country, his town, and his neighborhood, would awaken the amazement of an admiring world. The lure of the West, which took men away from the settled regions and carried them step by step across the continent, is one of the striking things in American history. Men such as these—hopeful, self-reliant, idealistic—also were naturally self-confident, believing in the guidance, not of superior beings, but the plain, common sense of plain people who lived with realities. The step from self-confidence and belief in a benign future to boastfulness, based largely on what was to be accomplished, was not a long step.

Of course the frontier embodied substantial social equality, as it had left behind all the old-fashioned barriers of social freedom which the older East inherited in part from

104 STEPS IN DEVELOPMENT

Europe. There was in the West a strange but not inexplicable mixture of equality with an appreciation of the fact that one might and must take advantage of his opportunities and show his own superior skill. His society, in other words, had discarded artificial, time-worn standards or classifications, but it did admit differences of attainment, for the race was to the swift and the battle to the strong. Even political leadership, provided the leader made no assumption of superior intelligence or erudition, but appeared to embody in himself the homely traits of the soil, was accepted loyally. There was more than willingness to swear undying allegiance to "Old Hickory," to "Harry of the West, the Millboy of the Slashes," to the "Rail Splitter"—to anyone, indeed, portraying in his own success the noble opportunities for any manly soul who was willing to fight his own fight and raise himself by his own efforts. Men saw in such success a justification of themselves and their own toil; they found in Western orators and politicians proof of the superiority of American life.

Every portion of the land was at one

time or another a frontier; and at no time was the influence of frontier life without effect on the character and activities of the people; but not until after the war of 1812 do we see these frontier characteristics in full force. After the war, the emigration from the Eastern States into the West was so rapid that before 1830 a large portion of the people of the nation lived beyond the Appalachians. If to these persons you add those living in the newer sections of the Atlantic Coast, you will find that almost half of the national population were frontiersmen, or had emerged but a short time before from the condition of simple life of the frontier. To this number should be added those inhabitants of the older sections whose condition and experience gave them very direct and immediate sympathy with the qualities produced by backwoods life.

With the accession of Andrew Jackson to the Presidency (1829) we find that American democracy had reached self-consciousness. What had gone before was only half-hearted, or, to be more cautious, not thoroughgoing and complete. Now, for a time at least, the

X
doctrines and the spirit of frontier democracy were dominant in national politics and in national character. Jackson was a man of the people—a common man of uncommon astuteness, a plain man trusting in himself but not disassociating himself from others, an unsophisticated person indulging in blunt simplicity, an unlearned statesman owing nothing to colleges, to books, to ancestry, to tradition, believing in the capacity of the ordinary person to handle the affairs of state which ought to be as free from intricacy as frontier society itself.

The scenes at Washington when Jackson was inaugurated might as well be described by a humble word; they were not ceremonies, they were “goings on.” “The President,” we are told, “was literally pursued by a motley concourse of people riding, running helter-skelter, striving who would first gain admittance into the Executive Mansion, where it was understood that refreshments were to be distributed. The halls were filled with a disorderly rabble scrambling for the refreshments designed for the drawing rooms, the people forcing their way into the

saloons, mingling with foreign ministers and citizens surrounding the President. China and glass to the amount of several thousands of dollars were broken in the struggle to get at the ices and cakes, though punch and other drinkables had been carried out in tubs and buckets to the people."

These unpretentious festivities marked the entrance of the demos into full possession of its kingdom. The "goings on" were not altogether seemly by the standards of so-called good society; but no one has ever asserted that democracy prided itself on seemliness or obedience to other standards than its own—least of all a democracy that had just waked up, or a frontier democracy that had just come into its own. These struggles for the ices and cakes meant that there was no special food for ministers of state from which the sovereign himself should be barred; and there was to be no peculiar place or property in which the sovereign people had no share. Obediently to this spirit of ownership—of proprietorship if not propriety—demand was made for the offices—the "plums," they are called, not ices and cakes—which had too

108 STEPS IN DEVELOPMENT

long been in the possession of officeholders who thought themselves better than other people or were charged with such offenses. So the "spoils system" was established, partly a protest against supposed exclusive-ness of an official class, partly a natural expression of the belief that what one has won by his own effort rightly belongs to him, partly the practical manifestation of political equality and the invalidity of the assumption that any special knowledge or experience is needed for public service.

The spoils system, we must notice in passing, was more than a demonstration that the people had come to their own—so contradictory are the forces of human life; it was a method of financing political parties. And so we have this awkward fact: at the moment when the plain people were rejoicing over the fall of the Bastille and their entrance into authority, they were really turning over the offices to the magnates of the party to be used to reward activity of the party men-at-arms; they were making the office not a place of public service but payment for efficient partisan warfare. Acclaiming that the gov-

ernment was now their own, they provided resources for the government of the party—the party machine—that was often in reality dictatorial, masterful, crafty, and only ostensibly popular. If we had full time to trace the vicissitudes of American democracy, we should have to trace the development of party and of party machinery; we should have to see various efforts to control or democratize the party government; and we should have to study the influence of that sturdy loyalty to party group, that faithful allegiance to one's adopted or inherited party, which is one of the most effective and perplexing realities in democratic life. How can a people be actually self-determining when they are swayed by party prejudice, party tradition, party machinery? Or, on the other hand, can democracies manage to exist and grow without these things? Unfortunately, I have not now the time to discuss this fascinating problem.

Jackson, we have said, was the man of the people; but this means more than a humble origin or personal popularity with the populace. It means two things: (1) The Presi-

110 STEPS IN DEVELOPMENT

Y. dent was considered to have a mandate from the nation. He alone was chosen from the whole, and he was thought to represent the whole. He could speak authoritatively for the masses of the people. So striking is this, so different in real spirit from what had been the case before, that we only exaggerate when we call Jackson the first President of the American people; in considering him we do not think of intricate election devices, electoral colleges, State boundaries, or an authority limited strictly to executing the laws of Congress. He was the exponent of a fact—the American nation and a popular will. All this is but the reverse side of the second thing, which is (2) that there was now an American people realizing themselves as determining authority.

✓ Jacksonian democracy was not altogether unseemly; and, indeed, whether it was or not makes little real difference. If there were rude assertiveness and ungenteel scramble and unpleasant cocksureness, there was also in a very large measure that sense of self, that consciousness of authority, that absence of embarrassment, that belief in its own high

destiny, without which democracy cannot really exist. Moreover, though sedate conservatives of the East stood aghast, and many a good New-Englander was only less shocked than when Jeffersonism won the battle thirty years before, Jacksonian democracy was national, not sectional; though it was frontier democracy, it caught up within itself the remnants of frontierism in the older East. Despite the rumblings of slave-holding reactionaries in South Carolina, the United States was now essentially a united nation, an entity, knowing itself, feeling its solidarity.

In the fifty years and more that elapsed after the forming of the first State constitutions, new constitutions had been formed and changes had been made in the old. Gradually the constitutions had been liberalized, and modifications making for greater participation of the people in their own government were provided for. Qualifications for the suffrage and for officeholding were largely put aside. Moreover, the people not only could vote, they did vote; and this fact in itself is a fact of prime importance in

112 STEPS IN DEVELOPMENT

the development of American democracy.¹ When Jackson spoke of the people's will he meant much more than could have been in the minds of men who framed the Constitution: they were careful to safeguard personal liberty, but were largely unconscious of this vast moral power, this moral entity to whose whims and caprices and stern demands an obedient official must pay heed.

How did Jacksonian democracy differ from Jeffersonian? It is difficult to say, because we can see in Jeffersonian democracy something of a prophecy of what was to be. Comparisons and contrasts are not, however, entirely valueless, though we are in danger of making the contrasts too sharp. Only, however, by making the contrast sharp and strong can I succeed, I think, in bringing before the reader the face and figure of the energetic and trustful democracy which we associate with the personality of Old Hickory.

1. Jefferson was intent upon restraining

¹ A study of the figures showing votes cast at election at various times from 1789 to 1840 is very illuminating in showing the growth of democratic interest and responsibility.

government, keeping it within narrow limits; Jackson had no fear of governmental authority. It reposed in his own bosom, and the people did not fear their own. 2. Jefferson was anxious about constitutional restrictions. Jackson perhaps thought he was also, but he had no qualms. Mere constitutionalism did not bulk very large on the Jacksonian horizon. The time had not yet come when expanding demands of an ever-more complex life thrust upon government many new obligations; the times had not yet come when people insisted on having efficient government that could do things and would do them; but the average Jackson just assumed that the people meant to have their way, and the government must obey its master. 3. Jefferson, eager for the maintenance of individual liberty, was solicitous for State rights; Jackson did not deny the State had rights, but he felt himself the head of a united nation. 4. Jefferson had faith in the judgment of the people, but his faith was really the substance of things hoped for; the people had not yet learned to have full faith in themselves. Jackson spoke au-

114 STEPS IN DEVELOPMENT

thoritatively in the name of a people, who did not ask anybody to have faith in them; they had faith in themselves. 5. Jefferson believed in progress of men under simple government toward a noble future; Jackson, a true Westerner, believed also in progress, but gloried in actual achievements. In both Jeffersonism and Jacksonism there is the belief in opportunity, but one cannot say that Jefferson struggled for equality, save the equality of chance which men might have if they were unmolested; in Jackson's time, though men, as I have said, recognized success and were eager in the struggle for advancement, they had cast aside as altogether unworthy any of the older distinctions which still existed in the days of Jefferson. And, moreover, there was a large degree of actual equality; during the second quarter of the century there was probably, especially throughout the Mississippi Valley, a nearer approach to full social equality than at any other time in our history. 6. Jefferson would not have thought of the unlettered and the inexperienced as qualified for the duties of office; he could not have imagined, with

simple frontier *naïveté*, that affairs of state required no expert guidance; but Jacksonism, true to itself and its origins, scouted the need of guidance, looked askance at the expert, and thought all the voters should do was to put one of themselves in office. Jeffersonian democracy was withal decorous, though not unargumentative; Jacksonian democracy was rude, strong, vociferous, noisy, boastful. The democrats of 1800 gloried in the hope of a better and finer civilization; the men of 1830, though talking of what was to be, reveled in their achievements, their freedom, their happiness, and the superiority of their civilization.

I have said that democracy of the Jacksonian type was vociferous and boastful; but life of those days was much more than merely indecorous; in fact, to dwell upon the unseemly qualities of American democracy is to make a blunder too often made. The very years when Jackson occupied the White House were days of varied intellectual activity; one might say they marked the beginnings of national culture. You cannot speak of that quarter century and omit Irving and

116 STEPS IN DEVELOPMENT

Emerson and Bancroft and Prescott. You cannot forget the younger men, Lowell and Holmes and Parkman, who were then coming to manhood and to creative power. You cannot neglect Webster, and Calhoun, and Everett. You cannot pass over those years without remembering that Lincoln was living, reading his Bible and his Shakespeare, and studying his dingy statute books amid the scenes of the untutored West. The truth is that if America was boisterous, it was so partly because it was intensely alive.

CHAPTER VI

SLAVERY AND ANTISLAVERY

IN the days of Jacksonian democracy, when men were discussing questions of practical politics—the bank, the tariff, the public lands—and when they were boasting of their freedom, the problem of Negro slavery began to occupy public attention. Perhaps it is more nearly correct to say that opposition to slavery aroused public interest; at all events, though there had been some opposition before this time, we can see in the fourth decade of the century the beginnings of that determined agitation which ended in Civil War and the emancipation of the blacks. Possibly this movement may appear to be quite distinct from the development of democracy; but in reality the attack on slavery and the upbuilding or the maintenance of democracy were closely associated.

One of the noteworthy things about the nineteenth century was the disappearance of

slavery, the disappearance of the ownership of one man by another; and this, of course, indicated a changed attitude of mind, an awakened sentiment on the subject of human relationships and responsibilities. The century, especially with the beginning of the second quarter, was marked by the spread of what was termed humanitarianism; and the attack on slavery was a natural and inevitable part of the movement, but only a part. In the eighteenth century thousands of Negroes were brought from Africa under revolting conditions; and few people stopped to consider the inhumanity of the traffic. Early in the nineteenth century the slave trade was declared piracy, and soon after the middle of the century, slavery, except in a few half-savage places of the earth, had disappeared. Thus in the course of a few decades an institution as old as the pyramids, or far older, disappeared from the world.

We should first notice that the general humanitarian movement was by no means solely an American movement; it showed itself in Europe as well as on this side of the water. Furthermore, it was closely associ-

ated with, or it embodied within itself, the fundamental philosophy of developing democracy, even political democracy; it helped toward the enlargement of the suffrage, the growing appreciation of man's right to self-government, and it made for an improvement in the conditions of labor. The course of English history amply illustrates this: the Reform Bill of 1832, the Chartist movement, the factory laws, and the other efforts to rescue the toiler from the terrible burdens of modern industrialism, the various movements for a freer and better colonial system, are all parts of the developing recognition of human rights and the reality of human duties. There was a general trend toward social reform, which in succeeding years swept strongly onward and has by no means spent its force at the present moment.

In America, beginning about 1830, appeared various manifestations of this awakened sentiment; missionary societies were provided, new religious organizations came into existence, the public school system took on new vitality, men discussed and rediscussed problems of human improvement.

120 STEPS IN DEVELOPMENT

This general spirit of humanitarianism deserves our special attention, because the slavery struggle in America often has been studied as if it were not associated with other humanitarian movements, as if opposition to slavery were disconnected from the general movement of the European world, and even as if it had nothing to do with democracy in its political, social, and economic aspects. You cannot split a tendency of the human spirit into neatly detached sections. When a general impulse is set in motion, or when an institution or a social practice is attacked, the ethical principles and the social thinking involved are sure to show themselves in numerous ways. The human mind is too nearly a homogeneous whole to work in detached thought-tight chambers. The threads of human motive and desire are likely to be woven into a single strand; and not only the individual man but society responds, in various undertakings, to the same or similar impulses.

In the fourth decade of the nineteenth century, both England and America were peculiarly stirred, as I have indicated, by

reform movements. "It was a day of ideals in every camp," says Morley in his *Life of Richard Cobden*. "The general restlessness was as intense among reflecting conservatives as among reflecting liberals. . . . A great wave of humanity, of benevolence, of desire for improvement, a great wave of social sentiment, in short, poured itself among all who had the faculty for large and disinterested thinking. . . . The political spirit was abroad in the most comprehensive sense, the desire of strengthening society by adapting it to better ideals and reenriching it from new sources of moral power." As far as democracy is essentially a spirit of human relationship—and that is what it chiefly is—this sentiment was the sentiment of reawakened democracy; it is perfectly obvious that this whole humanitarian idealistic movement, manifesting itself in sundry ways—in metaphysics, in demands for practical legislation, in plans for the reconstruction of society, in efforts of benevolence, in acts of compassion—was the root of much modern achievement, though ideal humanitarianism still lingers in the distance. It is

122 STEPS IN DEVELOPMENT

the root of the long and maddeningly slow effort to introduce a new social morality into industry; it underlies the desire to establish a cleaner and better method of handling the backward races and of a modified and improved colonial system; it furnishes the philosophy of political liberalism as over against close-fisted and stiff-necked conservatism.

In America this humanitarian movement naturally showed itself most clearly in New England, where in the thirties and forties many people—intellectuals and nonintellectuals alike—were stirred by visions of social change and reconstruction. "But some there were, high-flying souls filled with the new wine of this idealism, to whom the reality of ideas appeared to require that immediate effect should be given to their ideas; and failing this, that they should refuse all participation in an order of things which they could not approve. . . . There was an immense indefinite hope, and there was an assurance that all particular mischiefs were speedily coming to an end."¹ Read only a

¹ Cabot's *Memoir of Emerson*, vol. 1, p. 262ff.

few words of Emerson's New England Reformers, and the whole thing will be fairly plain:

"What a fertility of projects for the salvation of the world! One apostle thought all men should go to farming; and another that no man should buy or sell; that the use of money was the cardinal evil; another, that the mischief was in our diet, that we eat and drink damnation. These made unleavened bread, and were foes to the death to fermentation. . . . Others assailed particular vocations, as that of the lawyer, that of the merchant, of the manufacturer, of the clergyman, of the scholar. . . . Others devoted themselves to the worrying of churches and meetings for public worship; and the fertile forms of anti-nomianism among the elder puritans seemed to have their match in the plenty of the new harvest of reform.

"With this din of opinions and debate, there was a keener scrutiny of institutions and domestic life than any we had known, there was sincere protesting against existing evils, and there were changes of employment dictated by consciences. . . . A restless,

124 STEPS IN DEVELOPMENT

prying, conscientious criticism broke out in unexpected quarters. Who gave me the money with which I bought my coat? Why should the professional labor and that of the counting-house be paid so disproportionately to the labor of the porter and wood-sawyer? . . . Am I not too protected a person? Is there not a wide disparity between the lot of me and the lot of thee, my poor brother, my poor sister?"

From what has been said it must be apparent that the abolition movement, which began in the earlier thirties, was but one expression of the humanitarian movement and had its close association with the social-reform thinking of the day. Garrisonian abolitionism, because of the very extravagance of its principles, powerfully presented the core of the reform tendency. The followers of Garrison believed that we should reach out for the immediate good, scorn palliations or half-way measures, accept no apology for an institution on the ground that it had a long history behind it, resent the notion of a gradual emergence from evil, for "gradualism in theory is perpetuity in practice,"

cast out slavery as a sin. Furthermore, with this zeal for immediate reform, we find in abolitionism two tendencies that appear at least in theory to be opposed: one was the tendency toward cooperation, mutual helpfulness, association; the other was freedom of the individual, a freedom brought about by breaking all bonds of artificial restraint. Such tendencies or principles are seen in the various social movements of the time—revolt against stockish civilization, a freeing of the individual, and, on the other hand, the establishment of new communities and associations. And, after all, is not a good deal of this activity, a good deal of this seeming contradiction, only characteristic of democracy, which demands freedom but equally demands cooperation, united effort, and companionship?

If one reads superficially the utterances of Garrison, he may think him a simon-pure individualist; he appears to rely in considerable measure on the old idea of natural right; but, as a matter of fact, the philosophy of abolitionism was that of social wholeness. Garrison attacked the Constitution of the United

States, deeming it "a covenant with death and an agreement with hell"; the orthodox abolitionist refused to vote because the Constitution, he believed, recognized slavery. Nevertheless, the slavery question arose, because the United States was a nation and had come to a realization of its wholeness; plainly and definitely the man of Massachusetts had a duty, because men in South Carolina, a thousand miles away, held slaves; opposition to slavery as a fact was in part the product of a developed national consciousness. And, again, though Garrison and his followers abjured the Constitution and announced there should be no union with slaveholders, they conceived of a union larger and more comprehensive than the union of the American States: "The world is my country," declared the *Liberator*. "My countrymen are all mankind." This is one of those startling manifestations of the strength of a firmly held philosophy; for no one can, on principle and by faith, recognize his duty to his neighbor without being carried forward, at least in his faith, to a recognition of wide, perhaps a world-wide, neighborhood.

The effect of Garrisonian abolitionism, connected as it was in essence with the whole stream of humanitarian sentiment, is hard to establish. Probably by the violence of its attack it aroused bitter antipathy at the South and hardened the heart of Pharaoh. The refusal to consider means to the desired end or to have anything to do with gradual abolishment of the evil of slavery may in the long run have added to the difficulty of solving the slavery problem peacefully. We cannot tell. We do know that, though Garrisonian abolitionism was violent and extravagant, it was a manifestation of a developing intention to rid the land of slavery, and was part of the humanitarian movement, without which democracy would be a hollow sham, much farther away from the tasks and the imperative duties of the present moment than it is. And still, so contrary, so perverse are human affairs that this very effort to rid the land of slavery, this very sectional strife which was engendered, made extremely difficult the job of tackling and solving in the years to come the thousand and one problems of social and industrial betterment. The

problems of white labor had to wait, though slavery was also a labor problem; and the whole program of liberalism and of social reform to-day, fifty years and more since the emancipation of the Negroes, is complicated by the fact that the Democratic party is largely a Southern party, and it is difficult to form any nation-wide party on a clean-cut policy of industrial and social progress.

If American democracy was to develop and maintain itself, it must banish slavery: for slavery was based on force, not on consent; it belied the philosophy of democracy. No nation that really accepted the principle of ownership of man and the ownership of labor could, as the years went by, develop principles of democracy, international duty, or meet high-mindedly the problems of social improvement and reconstruction as they arose. And so, I say, this movement for the abolition of slavery, which you may have considered quite disconnected with developing democracy, was intimately associated with it. It is intimately associated not only logically, but by historical attach-

ments, with the desire of the present day to attempt the establishment of a world-peace on decent and self-respecting international conduct, on a recognition of liberty and freedom from malicious assault by the strong upon the weak.

The safety of slavery depended on silence; at least the defenders of slavery believed that agitation of the subject endangered its safety. It is true that the slaveholders discussed the subject continually, and learned books and tracts were written to defend the system. But they strongly objected to verbal attack or criticism by others. This, of course, was an inevitable product of the nature of the institution. The right to hold people in bondage under the hand of force is consistent only with forceful opposition to criticism; a philosophy which scorns consent and communication as the basis of a social order cannot be expected to welcome discussion with intention of reaching conclusions as the result of argument and interchange of opinion. The slaveholders, therefore, objected to open discussion, not alone because they resented attacks upon their property,

but because the whole nature of slaveholding philosophy necessarily condemned discussion and the meeting of minds for the determination of a fundamental question. This accounts for the torrents of abuse and passionate denunciation poured out on Garrison and the whole antislavery cause at the North.

The attempts to prevent discussion in Congress and to shut out abolition matter from the mails amply disclosed the contradiction between slaveholding philosophy and free institutions. The "gag laws," directed against the presentation of antislavery petitions, increased rather than diminished attention to the whole subject in the country at large, and, probably, even in Congress itself. Calhoun, as usual seeing things as they were with remarkable clearness, dreaded the development of a public sentiment at the North; he realized that, if a public sentiment on a distinct moral question were created by discussion, slavery was endangered and perhaps doomed or the Union would be shattered. Now, there can be no democracy without freedom of public discussion; and

there can be no democracy without the free opportunity of creating moral judgments by interchange of opinion. Thus slavery was not only contrary to democracy because by it black men were held in bondage, but also because it demanded silence, made war on the elementary life-principles of a free state which can exist only when there are facilities for forming common public opinion. One cannot well overestimate, therefore, the significance of this rising controversy; it was preeminently a controversy between the very life of democracy itself and the life of an autocratic system, which could exist only if the elements of democratic character were crushed out in the nation as a whole. Long before Abraham Lincoln announced that the nation could not long exist half-slave and half-free, that it must become either the one thing or the other, the fundamental ethical principles of democracy and slaveholding were at war, and only one could survive if the nation remained a nation. Notice that I am asserting not only that slavery kept some millions of blacks from democratic citizenship, but also that the philosophy on which

132 STEPS IN DEVELOPMENT

slaveholding rested must be acquiesced in by the nation if slavery was to be safe. The North must adopt silence and the whole principle on which silence rested. The North must surrender the principle of open discussion on public affairs, the forming of a political and social morality by interchange of opinion, the principle of popular government and democracy.

The development of slaveholding philosophy will make all this more clear, and as we see this, we shall see how the slavery contest, which ended in the Civil War, was a contest between two principles of life affecting the whole nation. I have attempted to illustrate before how the philosophy of abolition was but a part of the philosophy of human relationships which was exhibiting itself in many of the activities and ambitions of men. But democracy had as yet no thoroughly worked out philosophy, unless we accept the old philosophy of natural rights and of the absolute man; democracy has been with us, as it should be, I imagine, a matter of experiences and of growth as society developed. Furthermore, before 1830 there

was in this country no systematic and clearly formulated philosophy of slavery. Up to that time the South had regretted the existence of the institution which had gradually been weaving its coils about the whole social and industrial life of the section. The first person to outline the philosophy with any thoroughness was Thomas R. Dew, professor in William and Mary College. He contended that slavery was the normal condition of the majority of men, that prosperity and civilization rested on slavery. All this talk about natural equality of men was mere rubbish at the best; the common herd should toil and toil that the men and women of superior caste might rise to heights of elegant leisure and create noble works of art and literature. "Few greater blows," says Professor Dodd, "have ever been struck at democracy in the United States than this argument of an able and trusted teacher and scientist. The Virginians, at the point of beginning a policy of emancipation, turned their backs upon democracy and henceforth discounted their great historical leader [Jefferson]. They accepted a new social faith, which, as they

134 STEPS IN DEVELOPMENT

said, was more consistent with the facts of life."¹

While these theories of social order were primarily or ostensibly directed toward the maintenance of Negro slavery, they, of course, were intended to be principles of universal application. The world and the fullness thereof existed for the benefit of the select few; and they should banish altogether as maudlin and false all this sentimental talk about the rights of men as men to a higher and freer participation in the affairs of state and a wider and deeper participation in the comforts and pleasures of a developing civilization. As superintendence and direction were for white men in the South, and as labor was for the black men and the poorer whites, so at the North, if this philosophy prevailed, labor should be the lot of the laborer, while guidance and refined enjoy-

¹ A very interesting and learned presentation appears in "The Social Philosophy of the Old South," *American Journal of Sociology*, vol. xxiii, pp. 735-746, by Professor William E. Dodd. Quotation above is from p. 737. Chancellor Harper asserted, "The exclusive owners of property ever have been, ever will, and perhaps ever ought to be the virtual rulers of mankind."

ment should be the burden of the superior classes.

The foundation of this doctrine was, of course, that property was to rule: in the South, the capitalist, fortunate in having members of another race for the great body of menial toilers, could own the body of the laborer. It is almost refreshing to see the unadorned presentation of this whole philosophy of property as over against humanity. The thinking is so absolutely "un-humanitarian," so cold, so straightforward, so devoid of shuffling or subterfuge, that one can hardly complain of unfair play. There is the argument; do not bandy with it, take it or leave it: the thing to do is to keep the toiler in his place, ignorant because he has no need of education, free from temptation to climb because climbing will but injure him and the social caste into which he may attempt to clamber; the workingman of Britain or the North is in a condition worse than slavery because the slave being property is cared for as property; unhappy the land in which property is not made secure and civilization not stabilized by subjection of labor to capital.

136 STEPS IN DEVELOPMENT

It is plain that to preserve this most desirable stratification of society, every effort must be made to hold power in the hands of superior beings. Naturally, the militaristic doctrines found lodgment. Members of a ruling caste take with perfect aptitude to a militaristic régime. Of course there was not developed at the South that thoroughgoing militaristic plan and principle which was getting its stranglehold upon Germany and which in our day has brought unspeakable ruin on the world; but no one can read the arguments for aristocracy built on slave labor and stratified society without seeing in all their perfect and shapely nakedness the philosophic members of the argument for *Machtpolitik* and militaristic overlordship. I do not mean that the slaveholding régime was consciously and knowingly militaristic; but only that slaveholding, like militarism, rests on force, and that before 1860 the very nature of slavery was developing the principle of force.

The main argument of Calhoun was not so directly and brazenly an argument for slavery, *per se*, as it was an argument for the

maintenance of black slavery because of the diversity of the races. But by the logic of the situation even Calhoun was forced to give support to the principles which Dew and Harper most fully presented: "There never has yet existed," he said, "a wealthy and civilized society in which one portion of the community did not in point of fact live on the labor of the other." Furthermore, Calhoun's later political theory was all based on opposition to majority rule; instead of upholding what Jefferson called the vital principle of republics as opposed to force, the vital principle of despotism, he elaborated with astonishing skill a series of abstruse theoretical principles to justify the right of the minority to protect itself against intrusion; mere government by weight of numbers he repudiated vigorously and with astonishing cleverness. While this argument was created for the protection of slavery in a nation where the slaveholders were greatly outnumbered, he cited with approval those devices in South Carolina which had been used to protect the few against the many, and, of course, his whole dissertation is against the propriety

of a government which governs solely in accordance with the wishes of the masses of the people.

There is no more interesting or pathetic figure in American history than Calhoun. A man of extraordinary mental capacity, he gave the full force of his great intellect and character to the defense of a doomed cause—slavery. Slavery could be protected only by the South's shutting itself from the currents of nineteenth-century life; the forces of civilization were arrayed against the maintenance of any "peculiar institution." He was caught up in a contradiction which seemed to make imperative (1) the existence of slavery as a local institution with which the North or other parts of the world had no right to meddle, and (2) the need of other people's accepting the philosophy of slavery and of minority rule.

That Calhoun's theories, finely spun and wondrously elaborated, were really woven into a clever fabric for the protection of propertied interests hardly needs to be pointed out. In this case the property question was complicated by the fact that the

owner was white and the property black; but withal behind the argument for slavery were vast property interests, the holders of which had a thorough understanding, and on one plea or another were prepared to go any length to defend their possessions. The very extravagance of their positions and the very extremity of their needs furnish a brilliant illustration of the way in which selfish interests may create a philosophy and threaten the state; and as the antithesis between slaveholding and humanitarianism was so patent, so shocking, so obvious, it enables us to see other situations and problems of like character, where the conflict is not so obvious.¹ Doubtless there is always danger and always

¹ Of course I do not mean to assert that all Southerners were cruel and inhumane. Calhoun was instinctively humane and gentle, and I have no doubt Dew and Harper were. But there stands their philosophy, and before 1860 it had many followers. We often find in life gentle and refined people who tolerate a system of industrial or social intolerance which one would expect them to reject. I shrink, indeed, from describing the philosophy of slaveholding, lest I appear to be heaping objugation on the South; of that we have had more than enough. One ought to be allowed to attack evils in an industrial and social system without being charged with attacking the conscience and the character of all that are caught up and entangled in the system.

a struggle, danger that those flourishing under a given order of society and content with its rigidity will seek to entrench themselves and develop political and social theory for their defenses, while the discontented will become more discontented and batter at the barricades of their opponents. The struggle may be, probably will be, more or less continuous; but, despite the vicissitudes and the disappointments of modern democracy, we must believe, if we believe in democracy, that adjustments will come through discussion and not by force.

It is plain enough that the very foundations of democracy were involved in the whole slavery contest, not alone, let me say again, simply because it hardly can be democratic to hold men in bondage as property, but because the whole philosophy of slavery was at war with the philosophy of freedom and democracy. The thinking which would justify the white man in owning the black man, justified and exalted a system of society in which the many toiled for the few, in which the minority had privilege and power and unchanging protection, in which

education and discussion and free exchange of opinion were at the best for the elect alone, in which, as the minority must protect itself, military authority must be in the hands of the superior beings who alone were capable of managing the affairs of state. It is disconcerting to discover in how many different and yet similar guises the right of the superior to manage and control the inferior, this right based on some assumed basis for separate superiority, this right of the lesser number to control the destinies of the larger, comes to light even in modern history.

Illuminating as is the whole philosophy of slaveholding, it is especially so when one remembers that it was directly opposed to the philosophy of abolitionism and of humanitarianism, and when one sees that this highly developed theory was worked out in the very decade when humanitarianism was exhibiting itself most strikingly, especially in the Northern American States and Britain. Here were two directly antithetical attitudes toward life and duty, and the result of the antithesis was a great war, in which slaveholding was beaten down; it had to go if

142 STEPS IN DEVELOPMENT

democracy, a principle of human intercourse based on freedom and fellowship, was to survive and enter upon new duties and new enlarging experiences.

All this, of course, leads us up to the Civil War and its significance. The development of antislavery sentiment at the North is a very difficult course to trace. It is hard to account for the transition in twenty years or so from the time when Garrison's life was in danger and when the question of slavery did not trouble the even plane of orthodox religion in the Northern States to the time when Wendell Phillips was a popular idol and Charles Sumner a popular leader, and when churches were divided into Northern and Southern branches because of the slavery issue. That transition, momentous, perplexing, meaning so much that was fateful in our history, I shall not attempt to trace. The developing spirit was doubtless connected with the growth of national sentiment throughout the North, doubtless strengthened by the incursion of free laborers from Europe, doubtless aided by the widening and deepening social life of the Northwest which

was preparing to add its vigor to the conscience of the plain people of New England.

At all events the Civil War came on, slavery was abolished, and the nation was saved. Let us look for a moment into what was involved in the controversy and then see what was its effect. It is plain, of course, from what has been said before, that the issue was between principles of democracy and those principles of slaveholding which were directly opposed to the whole philosophy of democracy. The average man at the North believed the war was for the Union, to save the country from dissolution, and so it was; but the fate of the country was in reality of especial significance because on it depended the fate of democratic experiment. The United States stood out before the world as the one conspicuous effort at popular government. Was the country to be torn asunder because a section beaten in an election after twenty years and more of discussion would not accept the constitutional decision of the electorate? We have only to think of what would have resulted from the triumph of the principle of secession to see what was

144 STEPS IN DEVELOPMENT

the significance of the war. Two differing social and industrial systems would have existed facing each other across the Ohio and a surveyor's line in the West—two intrinsically hostile systems. Moreover, the break-up of the Union would have been hailed by conservative classes the world over as a demonstration of the incompetence of democracy as a basis of national organization. These two systems hardly could have maintained themselves peaceably; they would have been vexed continually by all the old problems of industrial diversity and fugitive slaves. Other wars surely would have followed and in the intervals a militaristic system would have been established. But all this simply shows us that the conflict was really, as Seward proclaimed, an irrepressible conflict, and that this continent must be either one thing or the other, either all free or all slave. The contest, as both Seward and Lincoln maintained, was the age-old contest between privilege and freedom, between the claims of the few to power and ease and the right of the many to eat the bread earned by their own labor, a contest which perhaps never will

disappear. Lincoln clearly saw the nature of the conflict: it was a conflict to determine whether democracy as a form of government and a principle of life should survive.

CHAPTER VII

DEVELOPMENTS OF RECENT
YEARS: INDIVIDUALISM VS.
SOCIAL CONTROL

It is difficult to analyze or to describe briefly the fifty years and more that have passed since the end of the Civil War. In that half century the population of the United States trebled; immigrants came into the country by the million; in 1860 all the Western country between the western line of Iowa and the Rockies was almost unpeopled; the mountain regions were practically without inhabitants. In one decade, 1870 to 1880, a territory equal to that of France was added to the farms of the nation, while in the next two decades the total area of farm lands taken up constituted a territory as large as France, England, Wales, and Germany combined. Towns and villages became cities; industries developed to enormous proportions; a few men amassed vast fortunes and the wealth of the land in-

creased amazingly; because of machinery and the building of railroads, many lines of business were concentrated in manufacturing centers; new problems begotten by wealth and poverty demanded solution; workmen began to talk about classes of society, while conflicts between labor and capital assumed at times alarming proportions; the growing complexity of society accentuated the interdependence of various portions of the country and its essential industrial unity, and also that government in the nation, the State, and the city must take on a multitude of duties unthought of in the simpler life of the days before the war. Democracy as a form of government was thus put to new tests because it was called to new duties. It had succeeded in the less intricate life of earlier days. Could it take on the new tasks and show itself efficient, economical, and just? Could our constitutional systems, arranged and established in more primitive times, be adapted to the new situation?

We shall have to content ourselves with only a brief discussion of the democratic de-

148 STEPS IN DEVELOPMENT

velopments and trials during that half century of growth, and we can only partly answer the questions that I have stated. Even the presentation of the problems is, however, of some value.

The first ten or fifteen years after the war were largely taken up with discussing the problems and cherishing the animosities of Reconstruction. We now look back on those years with some sinking of the heart. The South was a scene of industrial and social confusion. Slavery in its more evident forms had been put away forever; but you need not be told that the effort made by the North to force Negro suffrage on the South, despite the amendments to the Constitution, was not a practical success; the effort to secure substantial equality for the Negro was likewise largely a failure. The whole matter was full of difficulties for Northerner and Southerner alike; but it is especially depressing to find how much of the thought and passions of men here at the North was given to revengeful or suspicious partisan politics, how little to finding, on the basis of enlightenment, some solutions for the pressing problems,

which men as mere politicians could not discern. Of course the race question itself was full of perplexity, and it remains with us to-day, a question to be answered if possible by the mandates of democratic justice. In America and in the world at large, beneath the task of making and preserving democracy, rests the fact of diversity of races, of race prejudices and of race ambitions.

The Fourteenth Amendment (1868) was partly the product of partisanship, though not altogether unworthy partisanship. The Southern Democrats, the Republicans thought, should not have the advantage of increased State representation in Congress as the result of emancipation of the blacks. So the amendment provided that a reduction of representation should follow any denial of the suffrage to male citizens twenty-one years of age. The Fifteenth Amendment (1870) declared that suffrage should not be denied on account of race, color, or previous condition of servitude. I mention these efforts here only for the purpose of indicating that the old belief in freedom and responsibility was still active. Charles Sum-

ner and his school believed that the freedman was fit to vote and, moreover, that liberty and responsibility would add to his manhood; they continued to cherish the idealism which had been the uplifting force of the antislavery movement—the belief that freedom was the panacea for social ills.

Now, it is a strange and disconcerting fact that this belief in freedom was prominent at a time when society, as we have just noticed, was passing on to a new stage. Society was becoming more complex; the old ideas of unrestrained liberty, the notion that all would be well if government did not govern too much, were being invalidated by new needs; the time was coming when men needed to have things done for them which they could not do themselves, and when restraints on individual action were demanded. The time was close at hand when government must control the use of property. The old theory of *laissez-faire*, of everybody for himself in the business world and the devil take the hindmost, was being discredited and was soon to appear unworkable. As one reads through the Congressional debates of those

days when the Fourteenth Amendment was under discussion, he is depressed by the volume of sound poured out in denunciation of the "Rebels" and by the slight attention given to the provisions of the Amendment that were to be of great significance in the days that were just ahead.

The first section of the Amendment provides that no State shall deprive a person of his life, liberty, or property without due process of law, or deny to any person the equal protection of the law. The State constitutions commonly contained provisions of like character. But it is noteworthy that the Fourteenth Amendment protected individual liberty from infringement by the States; personal liberty was placed under national protection. Though the framers of the Amendment had chiefly in mind the protection of the Negroes, the words are general in their import; they do not refer to black men and freedmen alone. As the national Constitution now contained explicit protection of individual rights, every piece of State legislation that could be interpreted as an encroachment on personal liberty, on the

152 STEPS IN DEVELOPMENT

right of every man to do as he chose, might be checked by national authority or brought before the Federal Court for examination.

Hardly was the Amendment passed, when difficult questions of interpretation arose; indeed, difficult questions continued to arise, because, as we have said, the times were demanding greater governmental activity; discontent with the old notion that all would be well if only men were left alone was beginning to manifest itself. On the other hand, corporations and individual owners of property, busily engaged in industry, some of them occupied with tasks that affected wide areas and many thousands of people, wanted to be left quite free to manage their own business and reap their own rewards. The belief that men should be left alone was all right enough in simpler times, before the building of great factories and before long railway systems knit people in wide regions into a single body, when much that people ate was raised in the immediate neighborhood, when much that they wore was made in the household or by the village tailor or shoemaker, when much that was used and all that was

mended depended on the cleverness of the village tinker. But the new life was beginning to undermine local independence and the power of any man to live for himself alone and supply his own wants. What was meant, then, by a declaration that no State should deprive a person of life, liberty, or property without due process of law? Was a corporation a person? What was the content and the extent of liberty? Did property include profits from property, or could rates and charges be fixed and regulated, and if so, under what conditions? A study of the disputes arising under the first section of the Fourteenth Amendment discloses the nature of the industrial and general social problems of democracy in these decades of rapid change and rapid development.

Fortunately, at an early date the Supreme Court decided that the States were not by the Amendment deprived of the police power; that is to say, the broad power of controlling individual action and regulating the use of property to secure the life, health, and safety of the people. But, of course, the question

154 STEPS IN DEVELOPMENT

arose as to what was a due exercise of the police power. How far could State legislation go, under guise of using the police power, in the way of controlling men in their use of property? We must always remember that we in America always had boasted of the advantage of having governments that did not meddle; and we prided ourselves, not unjustly, on our ability to get on without annoying interferences. So legal controversies arose, and little by little principles, adapted to the new order, were laid down. We must consider all this discussion and the building up of new law as the product of a democracy endeavoring to solve the problems of a new social and industrial era.

As railways reached out over the Western country tying up the whole Middle West into an industrial unit, and as farms stretched out over the northern Mississippi basin, the farmers grew uneasy and demanded regulation of railway rates and elevator charges. They felt that they were subject to the will of a few men controlling essential industrial agencies and occupying strategical positions. Answering this de-

mand of the Grangers, various laws were passed, and these, of course, came before the courts, that their validity might be tested. "What right has a State Legislature to regulate charges?" said the railway owners. "What right have you," said the owners of grain elevators, "to say how much we shall charge for storing grain? This property is ours, and no one can limit the profits we reap except by taking away our property without due process." But the courts upheld the authority of the State to do these things, and in doing so laid down, in the elevator case, a very important principle, namely, that when property is devoted to a public use it is affected with a public interest and the public has an interest in that use. This principle formed the basis for the body of legislation that was to come, regulating and controlling corporations that are of quasi-public character.¹ The courts did

¹ Of course railroads might be regulated on a somewhat different principle, because they receive certain privileges from the State. But the general principle that a business may, though privately owned, be so essentially public in nature as to warrant regulation of rates is a very important principle.

156 STEPS IN DEVELOPMENT

not, however, acknowledge the full right of the State Legislatures to fix rates, but reserved to themselves the authority to deny the validity of any rates that were so unreasonably low as to be practically a confiscation of property. No one now questions the right and the duty of the government to regulate railroads. Times have changed since men in control of railway systems indignantly denied that the public had any business to interfere with the management of their property. Gradually they came to recognize that they are public servants.

It is unnecessary to remind ourselves, perhaps, that all this new adjustment, all this growth of public control, all these new burdens of democratic responsibility, had to be worked out here in America under written constitutions; and these constitutions sought to preserve individual liberty and in a measure to restrain government. It was necessary in this country, as in Britain, to bring about a change of mind, to determine what was wise and proper, to seek solutions for new problems; but in addition all American legislation had to be squared with the

prohibitions and commands of written constitutions. To be rid of the old theory of individual right and at the same time preserve constitutional limitation, or, rather, to preserve what needed to be preserved of individual right, to preserve the Constitution and at the same time meet the new needs of the day, was a difficult task. This process of adjustment, this enlargement of the principles of constitutional law, often sorely tried the impatient reformer. But I think it fair to say that the courts, though sometimes unwisely technical, on the whole succeeded with remarkable cleverness in maintaining constitutional principles while they recognized the validity of new social legislation. And this I say despite the fact that the courts have been the chief mark of attack from those that would hastily accomplish what they deem desirable. It may be that, in time to come, the people will demand that written constitutions, as far as they restrain governmental authority, be scrapped altogether; it may be that the courts will be deprived of the job of passing on the question as to whether legislation is in accord with a

158 STEPS IN DEVELOPMENT

constitution superior to ordinary laws. But that time is not yet.

Possibly of even greater consequence than legislation regulating railroads and other corporations are the laws for the protection of the workingman. This class of legislation has come chiefly in the last twenty-five years. Laws have been passed limiting the hours of labor and also laws providing that employers should give certain compensation for injuries suffered by workmen. This legislation, of course, had to pass through the judicial gantlet; for here again an old "liberty" appeared to be infringed upon. What right has any Legislature to limit my power of contracting with laborers in my factory? Or why should a law prevent a man or woman from working more than ten hours a day when he is willing to toil for twelve?

This demand for legislation restricting the absolute freedom of contract grew out of the fact that practically there was not real freedom, especially for the workman. It was easy enough to say that, if he did not like the hours of labor, he need not work, or to say

that if he did not wish to accept the risks of a certain employment, he could seek some other employment. As a matter of cold fact, the laborer was not free, except in the view of the law, to move hither and thither, or to accept or reject employment. And so the State stepped in to announce that employers must provide safe appliances, assume the risks of the employment as one of the burdens of business, and for the public good protect the public and the working people from long hours and unnecessarily exhausting labor.

In passing upon this legislation the courts, struggling up and away from the old idea of democracy, away from the belief that all would be well if government kept its hands off, reached a social point of view and adopted the principles of the new social democracy. But they did not declare that individual rights of employer and laborer are henceforth subject to any and every legislative act that may be passed: laws encroaching on the old freedom of contract must be judged by a wholesome social standard; the validity of such legislation must depend on

160 STEPS IN DEVELOPMENT

some apparent social need. Granted that there is to be any restraint on the free exercise of majority power, the requirement that there be some reasonable relationship between the welfare of the State and the legislation interfering with private conduct cannot be considered an unwholesome requirement. If we have reached the point where the courts freely admit the legality of such acts as appear to reasonable men to be of benefit to the public, the courts cannot justly be charged with acting as mere obstructions to the will of the people.

Democratic developments of the last half century are distinguished, therefore, by the efforts of the people to promote public welfare by legislation. Individual liberty and corporate action are limited and restrained for the general social good; a wide domain of legislation and administration has been entered upon, a domain undreamed of by the fathers. At the beginning of the nineteenth century Jefferson announced as the great requisite to complete the circle of our happiness a wise and frugal government which would maintain order and leave to the people

freedom of looking after their own affairs. No one would now call such a government democratic. But we have still to discover how wise and frugal and efficient a democracy can be that has assumed the responsibility of a new paternalism.

State constitutions have been greatly enlarged in the last half century. In place of the brief direct documents of early days that contained little more than a description of government and a statement of fundamental rights, we now have elaborate instruments containing orders, prohibitions, and explicit legislation on a variety of topics. The constitutions have been used as a means of direct popular legislation; for all through these later years the competence of the ordinary Legislature has been subject to a vague distrust, often too well founded. This distrust and the rising confidence in the judgment of the people have brought forth, not only elaborate constitutions filled with legislative enactment, but provision for the initiative, referendum, and recall. The cure for the ills of democracy, reformers declared, was to bring in more democracy, a democracy which

162 STEPS IN DEVELOPMENT

would allow the people by direct pronouncement to obtain their desires.

Many people, in recent years, have gone so far as to call representative government a failure, though how we can have anything but a government by representatives it is hard to see. All the outcry against our forms of government and against our constitutional system appears to me unjustified, though the criticism in the days before the war was characteristic of an uneasy and changing democracy. If we can elect capable and honest men to public office, our institutions will not hamper the soul of the nation. The task of modern political democracy is to elect honest and capable men to office; such discouragement as we often endure can be attributed to popular heedlessness, to the depressing readiness of the masses of the people, especially those having most to gain from honest administration, to follow party lines thoughtlessly and to yield to incompetent leadership or worse. No mere modification of written documents can supply the want of conscientious attention to the power of the ballot.

Recent democratic movement—not everybody would call it progress—is well indicated by the Sixteenth and Seventeenth Amendments, both adopted in 1913. The Seventeenth, providing for the popular election of senators, was the product of intense dissatisfaction with the unseemly and sometimes scandalous election wrangles in State Legislatures; and the people believed that they were quite competent to choose senators themselves. The indirect method of election which the framers of the Constitution had established may have been suited to the timid and half-conscious democracy of the eighteenth century, but the system had been outgrown by the twentieth century. There is no use in arguing that we shall not get better senators by the new method of direct choice; the people, in this, as in some other respects, impatient with representative systems, wanted to try the job themselves.

The Sixteenth Amendment too was the result of years of discussion. Its adoption marks the end of a long effort, begun a generation or so ago, to use the income tax as a method of making wealth bear what was

164 STEPS IN DEVELOPMENT

thought to be its fair burden of taxation. The amendment provides that the national government can levy taxes on incomes without apportionment among the States, as originally provided by the Constitution.¹ The principle of graduation has now been adopted, and, judging from our experiences with war taxes, a way has been found to ward off what used to be called "the menace of great wealth." Whether you term this democracy or not, the Sixteenth Amendment and graduated income taxation must be deemed the most considerable result of some decades of political agitation and of social unrest; for a generation men had been perplexed by developing wealth and continuing poverty, and some there were who believed both were foreign to successful democracy.

It is a very striking fact, as Lord Bryce has pointed out, that for many decades written constitutions were demanded by liberals

¹ The Constitution provides that "direct taxes" levied by the national government must be distributed among the States in accordance with population. In 1895 the Supreme Court decided that a tax on incomes, from most sources, was a direct tax.

struggling to build up and safeguard liberty, while now the written constitution is upheld by the conservative elements of the community, though they too declare their object is to protect liberty and the rights to honestly acquired property. Few things better illustrate the changes that have come in the development of modern popular government. But one can well doubt whether a radical change in our form of government would aid materially in the wise solution of our social problem. Naturally, if we do not desire any protection of property, any safeguards of what used to be called individual liberty and constitutional law, anything, in fact, but the immediate establishment of what the majority wants or thinks it wants, such a consummation might be gained by scrapping everything we have. But those who complain of courts and constitutions do not, in my judgment, fully appreciate how rapidly popular desires are fulfilled and how amenable are the judges and officeholders to the public will. While judicial precedents and party intrigue often do present obstacles, the impressive fact is the rapidity with which

changes come. No one conversant with our judicial history for the last thirty years will deny it. The truth is, the obstacles to reform, as far as it can be obtained by legislation at all, are due, first, to the difficulty in obtaining an aroused and determined public opinion—and until there is a decided majority conscious of its purpose, changes ought not to come; second, to obstacles such as would arise under any system of formal government, namely, incompetence, pressure from well-organized minorities, occasional corruption and malign influences, and heedlessness of the voter. When there is among the people a well-considered desire for a change it comes. Public opinion is powerful and commanding.

Other countries have outstripped the United States in providing certain kinds of social legislation, though we have made great strides even in the last ten years. This comparative backwardness is due not so much to inadequacy or awkwardness of our governmental system as to various other things: (1) to the constant stream of immigration; (2) to the abundance of laborers; (3) to the

fact that until recently we had an open West and still have opportunities not offered by other countries, and that we have consequently not felt the pressure of the economic system as have the people of Europe; (4) to the size of the country and the difficulty of getting a consensus of opinion; (5) to the diversity of occupations and to the fact that there are large sections of the country in which people, engaged in agriculture, are unaware of the problems and perplexities of big industry and of urban communities; (6) to the peculiar perversity with which men adhere to parties on traditional lines, partly because of the history of the United States with its sectionalism and its particular loyalties and differing memories; (7) to the fact that for various reasons we have no liberal party in America; (8) to the discouraging frequency with which those who have most to gain from honest and forward-looking government, see fit, particularly in our municipalities, to select, not wise, honest, and capable administrators, but incapable triflers having no social vision.

CHAPTER VIII

THE IMPLICATIONS AND RESPONSIBILITIES OF DEMOCRACY TO-DAY

IN discussing successive experiences of America as a popular state, and in trying to present some of the steps in the developments of democracy, I have refrained from any serious effort to describe democracy except as certain phases or aspects of it appeared in our actual life history. I refrained too from attempting to lay down an inclusive definition. Such a course appeared necessary, if I would not attribute to American democracy of the past all that we now find to be theoretically involved in the action and character of a thoroughly democratic people. If we analyze the subject, we shall see that we now find implied in it much that men would not have seen or not accepted in most of the decades of the past. Inasmuch as a democratic society includes naturally

within itself the character, the aspirations, and the qualities of the main body of the people, we must expect, as the years go by, that some of the characteristics of democracy, portions at least of its visible significance, will vary. Successive experiences and developing social needs recreate, modify, and enlarge the scope and content of democratic responsibility.

Furthermore, a great war has been fought with the strength of millions to make democracy safe and to preserve for ourselves and for our children's children a spirit and an inspiration. Young men by the hundred thousand lie in Flanders' fields or in the rugged ravines of the Argonne, martyrs for the cause of democratic justice. We have therefore been enabled to see, or we ought to have been enabled to see, the full significance of democracy as a principle of life. Much of the discussion of democracy in the past appears to rest on the supposition that America was democratic, that we always embodied all of the qualities of democracy, that we were a charming example of all the virtues and all the capabilities of a thorough and utterly

170 STEPS IN DEVELOPMENT

sincere democratic nation. Do not so understand what I shall have to say about the meaning of democracy and what is involved in the full philosophy of democracy. America has more or less consciously striven to be democratic; we have more or less honestly sought to be a really popular state, and we have partly succeeded under circumstances that were on the whole favorable. But to-day more than ever before we should be aware of our failings, see our responsibilities, and seek earnestly to live up to the tasks of a real, a newly inspired, and a developing democracy.

I speak of a rejuvenated and newly inspired democracy, because, if we have seen democracy at its full stature, we may question its vitality. If we have faith in continuous enlargement, we may have confidence in its permanence, we may be sure that it was something worth dying for, and, what is more, something worth living for. And, after all, that is the great human question; if men died for it, will the rest of us live for it?

No quality or condition of life is perma-

nent; there must come change. We now are wondering, however, whether in our effort to secure what we thought most essential we have been swept on by a tide of human passions, which has deposited us at the feet of a new despotism, which disregards the old restraint of the democratic state and the democratic society. It almost seems as if all civilization were suffering from shell shock, beset by dangers of aberration and psychical derangement. Under the old name and with new watchwords are men to fashion a new tyranny or is there to come a refreshment of the spirit and enlargement of freedom? I am not going to speak of Bolshevism as a creed or a practice; I wish only to impress the thought that not even democracy can stand still, and to present the possibility that it faces a new peril. We have already seen that what we have called democracy in this country has passed through various phases. If democracy after its struggle for self-preservation is quite content, then it is no longer quite alive; it may go down before new vitalities. An embalmed democracy deserves burial.

The fullest meaning of democracy may be brought out by contrasting it with autocracy; that is why the war should have made us see all that is implied in the institutions and ideals we fought for. Let us, then, examine the philosophy of autocracy, and, in order to understand what we fought for, let us first understand what we fought against. To analyze democracy is no easy task because it is alive; to vivisection democracy is harder than to hold an autopsy on autocracy.

An autocratic government is one recognizing no authority beyond itself; it acknowledges no responsibility to externals. Its power is spontaneous, intrinsic, or inherent. Its main reliance, its main resting place, is force. There may be no need of continuous display of power; but the nature of the institution demands the self-will of the autocrat and the obedience of the subject. It is the duty of an autocrat not to carry out the will of others, but to bend all the rest to his will; if he does not, he ceases to be autocratic. Necessarily, the state and the government are one; Louis XIV was quite right when he said "*L'état c'est moi!*"; he was the possessor

of sovereignty, and sovereignty is the peculiar possession of the state.

Autocracy requires segregation for safety. If there is a divinity which doth hedge a king, the hedges must be scrupulously maintained. If no man is great to his valet, everything must be done to shut out the vulgar from the sacred presence of the would-be great. Accessibility may be an amiable quality in a king, but it endangers his character as an autocrat; he must be kept apart from the conflicting and modifying currents of life. I do not maintain that all autocrats have been personally inaccessible; but to the extent that they practice accessibility or feel the pull of anything outside themselves they cease to be really and primarily autocratic.

This need of segregation or aloofness rests in part on the assumption of superiority. No autocrat doubting his own wisdom would be more than a whited sepulcher, though I admit he might still be a ravening wolf. Any recognition by an autocratic monarch or an autocratic aristocracy that help can be gained from the opinion of others undermines their fortress. They are of bluer

blood and of finer clay. To strengthen this position of authority they call upon God as the source of their peculiar superiority. Because of this superiority they must cut themselves off from surrounding life. This, of course, begets a degree of insanity, for only by human contacts can one remain psychologically wholesome.

Autocracy leans upon deceit. The autocrat need not always be deceitful; but when the lion's skin runs short he will "eke it out with the fox's." He has no duty but to serve himself. To deceive the multitude can be no sin if he helps himself to greater security. And if active deceit is not always needful, secrecy is the inevitable companion of superiority and aloofness. So closely allied are stealth and secrecy that it requires the microscope of the practiced casuist to distinguish one from the other, and both are the parents of intrigue.

To this sum of the virtues of autocracy should be added cruelty—not perhaps a quality necessarily indulged in. But how is one to judge of cruelty? If one maintains aloofness and superiority, how can one know

how his acts torture the common man? No one can retain human compassion by shutting himself off from human sympathy. Sympathy is certainly denied the autocrat, because it means fellow feeling, and there are no fellows; all are his underlings.

I have not been contending that any person was ever a perfect autocrat; it would probably not be hard to point out almost perfectly functioning autocratic aristocracies. But that is neither here nor there. My main contention is that there was a nature in this thing we are dissecting, there was a logic in its life. It was living up to the philosophy of its own being, living up to the impulses of its own life, when it lived up to irresponsibility—irresponsibility to external compulsion, be it legal, moral, or spiritual. No human organization has as such a higher law than the law of self-preservation and self-expression, and the law of autocracy must be that of self-consideration, and that alone. To the extent that it considers others it invalidates itself.

When Mr. Wilson called America to arms, bidding us fight against autocracy, we

thought at first, as possibly he did, of the enormities and cruel willfulness of autocratic government. We were justified in so thinking; the Kaiser and the men surrounding him displayed to the world various obvious perils in a government whose chieftain spoke of himself as the commander of an armed nation and as one relying on the strong arm of a Teutonic God. But we soon saw more than this; we saw Germany as an organized nation in arms playing the role of the autocrat among the nations of the world. We saw her practicing irresponsibility, laying international law aside, using brute force to get her way, trampling upon her inferiors, indulging in intrigue, using frightfulness as a weapon. She could not acknowledge the binding character of moral obligation, she could not accept the common opinion of the world without recognizing external authority, something above her own self-will. No nation that opposed her plans merited pity, for her highest duty was to herself. She was typically, logically, adequately autocratic.

No nation can adopt a form and principle

of government and placidly acquiesce in it, without tolerating, probably admiring, the philosophy on which such government rests. The character of a people is bound to show itself more or less fully in the scheme of political order with which it is content. But, generalization aside, no one can doubt the symmetry of the Teutonic organization. Germany was self-willed, Germany was superior, Germany relied on force, Germany would not permit the crudities of outside civilization to mar her own *Kultur*, Germany must be dominant, not co-operative. When Grey asked the German foreign office in 1914 to confer and discuss, and not to plunge recklessly into war, the request was pushed haughtily aside. It is not consistent with the self-will of a superior being to indulge in conversations. And thus we see it was a state of mind the world fought against, the autocratic state of mind—aloofness which begat peculiarity and obliquity—a dehumanizing because an uncompanionable state of mind. An Englishman said not long ago that the “primary fault of Germany was ingrained determina-

tion not to permit a free meeting of minds between people and people." How could a nation permeated by the philosophy of autocracy permit free, open, cordial interchange of opinion, the building up of a community of sentiment or judgment?

If, now, we have performed this hurried autopsy, we may take up the vivisection. And yet, perhaps, it is quite unnecessary, for democracy is just the opposite of all these things; and if it be intent on self-preservation, on living up to the logic of its own being, it will shun the whole philosophy of autocracy as it would the plague.

In a democracy the masses of the people are supposed to participate in their own government. What is called the government is the creature and agent of the state. This government has no inherent power, nothing intrinsically its own. The center of its character is responsibility to the main body of the people. All authority is a trust. The justification of democracy as a form of government is that it is natural, not artificial; governmental action is supposed to conform, and in a perfect democracy will conform to

the wishes of the people. It is not necessary to assume that men always choose aright, but only that they strive to satisfy natural desires.

Democratic government is responsive government. Whether men always choose correctly or know their own needs better than a selected few can tell them is not now the question. Democracy's justification of itself is that it is natural and that there are tides of human impulse sweeping through the masses of men, instinctive longings and cravings, to which government must respond. No extraneous, superimposed, semidetached government, above all not one tainted with irresponsibility, can be sensitive to the developing needs of mankind.

I shall not, however, longer dwell upon democracy merely as a form of government. No one can speak for a moment of political machinery without finding himself beginning to wander into life beyond the borders of mere mechanism. So closely associated are the assumptions of political democracy with the activities and spirit of everyday life, so intimate are political forms, if they be more

180 STEPS IN DEVELOPMENT

than form, in their reactions on daily conduct, that it is almost impossible to distinguish the character of the people from the nature of its government. So all-permeating is a principle of political organization, or so single are the thoughts of men, that the logic of a political system affects ethical conceptions, social relationship, ecclesiastical organization, and theological tenets. Modern theology, for example, is the theology of democratic brotherhood coupled with freedom of the individual; and we have seen that the Puritans established their church on contract, elaborated a contractual political philosophy, and bound Almighty God by his own constitutional covenants.

As democratic government is responsible government, acknowledging that power and authority rest on consent and agreement, so it inculcates the sense of responsibility in every member of the state. Unless the individual, recognizing the ethical principle upon which the theory of the state rests, is prepared to shoulder his burden and do his part, that theory remains in part a theory. Here we reach another justification of the

democratic system. It suggests responsibility in each individual, and not only the need of doing for himself, but of living for others. If the philosophy of the popular state actually stimulates this feeling of obligation, this duty to act and to live in social order, then the state by its very nature, by the logic of its being, by the necessity of self-realization, awakens the most fundamental of human virtues.

Democracy rests on faith. It confides in the fundamental validity of human nature. It believes that men can be trusted, and, while they may fall into error, they will naturally on the whole seek out the good. Its philosophy is, therefore, the philosophy of optimism; and it is perfectly natural that it should have arisen in its modern form in America, where men are perhaps optimistic because they are democratic, but certainly are democratic because they are optimistic. Once again we find ourselves in the realm of ethics, and even theology. It was inevitable that modern American democracy should have its rise in the mind and heart of a Virginian who had broken away from the old-

fashioned views of theology and religion, and looked upon the Creator of the universe as a Father who was interested in the lives of his children, rather than as a Judge who was intent upon condemning them to everlasting fire. The one thought we always have, even when not wholly conscious of it, is that men are capable of progress and that the future surely contains within itself a higher and better order of things than we now see about us. In all that we do we are inspired by the belief that, little by little, step by step, men are lifting themselves to a higher stage of civilization and to a higher plane of character. The autocratic or oligarchic state, by the very logic of its being, loses the inspiration that comes from faith. Faith and autocracy are enemies, and the very system of the state suggests content with a static condition, not to say despair, rather than movement toward a better and brighter future.

If we speak more simply and in the terms of practical politics, this faith foundation of the democratic state means that on the whole there is no surer criterion for what is wise in political action than the judgment of the

main body of the people. This does not mean that men are perfect in the mass; for they cannot well be, inasmuch as they are not individually perfect. It simply means that the judgments of the whole are likely in the long run to be the surest guides as to what is best for the whole. As faith in the quality of the masses of men is an inspiration to each one of us individually and affects our temperament in all matters of social life, so the faith which is reposed in the individual man helps to make him more worthy of confidence. If one believes that other men have no faith in him, he must almost surely lose faith in himself. "Was there not," says Morley, "a profound and far-reaching truth wrapped up in Goethe's simple yet really inexhaustible monition, that if we would improve a man, it would be well to let him believe that we already think him that which we would have him to be?"¹

Democracy has been called the hope of the world. It is hope. As Jefferson said, men have the natural right to "pursue happiness." Unhopeful democracy does not amount to

¹ "Essay on Carlyle," *Miscellanies*, vol. i, p. 192.

anything. Henry Adams pictures Jefferson as saying to himself: "If fifty years hence the average man shall invariably argue from two ascertained premises where he now jumps to a conclusion from a single supposed revelation—that is progress! I expect it to be made here, under our democratic stimulants, on a great scale, until every man is potentially an athlete in body and an Aristotle in mind." In speaking of the characteristic optimism of the Americans of one hundred years ago and more, Adams said: "If the priests and barons who set their names to Magna Charta had been told that in a few centuries every swineherd and cobbler's apprentice would write and read with an ease such as few kings could then command, and reason with a better logic than any university could then practice, the priests and barons would have been much more incredulous than any man who was told in 1800 that within another five centuries the ploughboy would go a-field whistling a sonata of Beethoven and figure out in quaternions the relation of his furrows."

This recognition that faith is our soul's

salvation is the cause of our anxiety in these passing days—not that we fear for our property, not that we are afraid of national discomfiture, not that we stand sponsor for any given international or even for any particular economic system—but that we fear for the philosophy of our daily life, fear that we may be robbed of our faith, fear that we may stand naked and unarmed in the presence of facts appearing to demonstrate that men are not sufficiently wise, generous, magnanimous, and self-restrained to move steadily forward toward the goal of their own greater good.

Democracy rests upon education. Of course it is conceivable that in a perfectly simple state with narrow limits you might have democracy without very much intelligence, but in the complexity of modern life it is utterly impossible to carry forward the affairs of popular government without wide and sound education. We sometimes wonder, not so much whether men are morally capable of living up to their responsibilities, as whether the human intellect is capable of actually solving the problems of modern life and managing public affairs for

186 STEPS IN DEVELOPMENT

the common good. Society has become so intricate, there are so many interrelations and interdependencies, that we are sometimes staggered at the very prospect and shrink from the attempt to find intellectual solutions for our problems.

Because of some vague appreciation of these responsibilities of popular government, the American people have always taken a lively interest in schools and colleges. There has appeared at times to be even a strange contradiction between the unstinted force of the whole educational system and the attitude of mind, or what seemed to be the attitude of mind, of the average American. Certainly until a short time ago the average business man and the great body of persons who had not themselves received college education were inclined to depreciate the value of any form of study which would not give immediate practical assistance in the business of making a living. The educated man was looked upon as quite a superfluity in public affairs; and the theorist and even the expert were considered abnormalities. The early life on the

frontier, leading men to think that the greatest achievement was to overcome the tangible and most immediate obstacles of nature, prompted them to look almost with disfavor on anything that was not adapted to the winning of the wilderness. And yet in spite of this, hardly were these Western settlements made, hardly, as Tyler says of the early New Englanders, were the stumps brown in their earliest harvest field, or had the wolves ceased to howl about their nightly habitations, when they determined to found schools and colleges and give their children the opportunity of education. The reason for this inconsistency, if such it were, is to be found partly in this unconscious realization that democracy depends upon an intelligent public; and partly, no doubt, on the fact that democracy is forward-looking; and if the early American had no ancestors, he had at least posterity. If he had no past, the future belonged to himself and, above all, to his children.

But when I have said that democracy rests on education, and prompts wealthy men to endow schools and colleges, and leads the

188 STEPS IN DEVELOPMENT

public to pour out its money in educational undertakings, I have been dwelling only on education in the very formal, though more ordinary sense of the word. The more important truth is that democracy is itself educating. The duties to which men are called, the matters which each individual man is asked to consider, in themselves demand thought. Any social or political system which asks the individual man to think is in the highest degree educating. Progress must come from human effort, and, above all, from the effort to think. "In the free state," said the French philosopher, Montesquieu, "it does not make so very much difference whether men think things out correctly or incorrectly. The important thing is that they think at all."

At times in the course of heated elections, when complicated questions of state are involved, we doubt whether the untrained public is capable of understanding the actual issues. The truth simply is that in a free state it does not make such a tremendous amount of difference whether a question is thought out correctly or not, if men by their

responsibilities are tempted to think about things which otherwise they would have no thought about. The educational and uplifting force comes from reaching out for ideas and logical principles just a little bit beyond our reach; and it is this reaching, this effort to do what one has not done before, this attempt to grasp what is perhaps unattainable, that is most desirable. It is better that men should reach and fail to grasp than never to have reached at all.

Democracy is fundamentally a matter of human relationships. I have been contending that possibly its chiefest value resulted from its necessary reactions upon the individual man. But democracy as we have come to conceive it is not an individual thing at all. And still, democracy demands freedom; it cannot survive, it does not exist, under the weight of super-imposed burdens as distinguished from self-imposed. There are two kinds of morality in the world, and only two; and one of them is not morality. Obedience in response to externally applied compulsion need not be termed a virtue; though compulsion is needed to restrain the

criminal-minded man or the criminal-minded state, obedience is necessitated by immorality. Only internal compulsion, or obedience to one's own inner sense of obligation, is real morality. Now, the democratic state calls on men to assume burdens, to compel themselves to act rightly and justly because they believe in right and justice.

There is a perilous notion abroad in the land that we should imitate Germany and rear passive obedience to external order into exalted virtue, and that by discipline, training, command, we should create character. This is all at variance with democratic philosophy and with the philosophy of our educational system. Modern education has thriven and justified itself by seeking to release faculties, to develop self-command, to awaken self-reliance, to establish responsibility. Our educational system and philosophy have been justified in the crisis. The young men from our college halls flocking unbidden to officers' training camps showed intellectual keenness and eagerness; they showed power in analyzing problems, and a readiness to assume unwonted duties of com-

mand because they had been led by freedom of college life and college teaching to command themselves. This capacity for responsible leadership filled us with merited pride. In the terrible battles on the Meuse and in the Argonne, young fellows but a year or two out of college, working over an unknown terrain, leading a body of unskilled men, their superior officers sick or wounded or dead, carried the burdens of terrifying responsibility with a calm and courageous strength which is one of the soul-stirring facts of the war.

This, I maintain, was the outstanding lesson of the war. The German soldier doubtless had a consuming, almost a fanatical love of his race and his fatherland, and I would not rob the fallen soldiers of their meed of praise, if it is needed, for their readiness to sacrifice. But to my mind the great inspiring sight was the rise of free peoples to struggle unbidden for justice, their readiness to offer their lives for uncompelled duty. And possibly the most wholesome and uplifting sight of all was the way in which the free peoples of the free Brit-

192 STEPS IN DEVELOPMENT

ish empire—in Australia, New Zealand, Canada, South Africa—nations nourished in freedom, rose almost to a man to perform prodigies of valor on the fields of death. For it gave us new assurance that empires could be reared on freedom and that men would not cravenly steal to safety behind the curtain of irresponsibility. The boys too that went from these halls and other college halls openly, frankly, welcoming danger, welcoming it with a pathetic high-heartedness that wrung our own souls, proved to us, if proof were needed, the compelling power of duty. You may lament that we were so slow; you may complain because we did not go into the war sooner; you may believe that delay was in the long run wasteful of life; but as for me, I know of no more inspiring fact in history than the calm, though slow, deliberation of a hundred million people making up their own minds to do what they believed ought to be done.

Freedom begets responsibility; freedom creates duties; freedom binds men together in fellowship. This is only one of those paradoxes of which human life is full. The

student of the philosophy of society knows that society flourishes on mutually supporting contradictions. So democracy, calling upon the individual to live and act, is at war with irresponsible individualism. One of my colleagues, with a wit suited to Sydney Smith or a regenerated Voltaire, once defined an afternoon reception as a clever social device for giving the least possible pleasure to the largest possible number. I may stop to say that even the afternoon-reception variety of democracy is at least as praiseworthy as the more decorous and not less formal autocracy. For if democracy *at its worst* is but an uncomfortable and perhaps uncomfortable elbowing and pushing for the ices and cakes, resulting in the least possible gratification to the multitude, autocracy *at its best*, that is, acting most wholeheartedly in response to the law of its own being, seeks to give the greatest possible pleasure to the smallest possible number.

But the afternoon reception does not typify real democracy, for democracy connotes cooperation and relationships. Individualism is the result of disintegration; its

194 STEPS IN DEVELOPMENT

motive is detachment. Democracy is association. You cannot take a man out into the wilderness and leave him with the admonition that he be a good democrat. Democracy requires companionship. Without contacts, nay without wholeness, without social solidarity, it is only partly itself. If a neighborhood, a nation, a college, is divided into groups that are self-willed, self-seeking, uncommunicative, it is not democratic—for mere poverty or mere simplicity or mere unsophistication, though often called the elements of democracy, are not so at all. You cannot have—need I say it?—you cannot have popular government, popular determination; you cannot have popular anything, without a populace which feels itself a whole.

I have not touched on the vexed question of social equality, or, indeed, on equality at all. I am not sure that in the future, if democracy ever reaches perfection, equality will be considered an essential attribute. There is no equality in nature, and an artificially imposed equality can scarcely be called democratic. The whole subject is so full of perplexing and alluring difficulties that more

time is needed for its discussion than I can here properly devote to it. Some things, however, are obvious. Democracy, as we have known it, has meant progress and opportunity, not an unvarying dead-level achievement; it has rested on thrift and enterprise and individual judgment and energy; it has given or allowed its rewards, doubtless overlavishly, to shrewdness and individual skill. But a society which does not prompt men to move and to exert themselves can scarcely survive. Equality before the law we all acknowledge as a necessity; and if it is not a reality, it must be made so, a real equality before the bar of justice.

Almost from the beginning in America, and most notably since men began to pour in eager armies through the passes of the Appalachians to seize upon the lands of the Mississippi basin and to develop its resources, "success" has been the outstanding word in American civilization. Every school-boy was urged to win success in life, and generally the thought was of pecuniary success. It is symptomatic of recent America that that word no longer holds its dominating

196 STEPS IN DEVELOPMENT

position, and, if it is used, connotes something new. The winning of a great fortune is not now looked upon as the only success in life, if it be success at all; and the holders of vast wealth are judged by others and they judge themselves by the skill and wisdom and public spirit with which they give their money away. We do not know how far this attitude toward the amassing of fortunes will develop in the days to come, or how far men should be deterred or restrained in their efforts to make and control money and more money. And I think we do not need to know. We do know that society lives and is changing before our eyes and that there is a deepening sense of social responsibility in the minds of the fortunate and the prosperous. After all is said, responsibility is the word and the spirit which separates democracy from its antagonist, its essential enemy, autocracy. Doubtless we are entering upon a stage different from that created by the frontier life of the American people, and service is supplanting success. It is, moreover, not alone the rich that must cherish responsibility, but the poor as well. Or, if we

can reasonably hope for the disappearance of real poverty, as we must and may hope, the less fortunate and the less gifted must bear their share of obligation to the state, to themselves, and to their neighbors.

I have no doubt that industry must be democratized and that the process is going on. But unless we have passed on to a stage of mere negation, such democratization does not involve the destruction of expert guidance or the denial of appropriate pecuniary reward; it does not involve domination by the ignorant and the incapable, or the benumbing of individual initiative. It does mean probably a widening of companionship, a strengthening of responsibility, a humanizing and liberalizing of authority, a deepening of duty, a banishing of unintelligent enmity. It does mean—this process of democratization—an integrating process, a wholesomizing process, based on a sense of individual selfrespect and social esteem. Unless the past has led us quite astray, these are the natural products of a developing humanity under the inspiring suggestions of a political system which decries willfulness.

198 STEPS IN DEVELOPMENT

The industrial revolution began only about one hundred and fifty years ago; it has shown its effects clearly only through the past seventy-five years. Only during the past one hundred and fifty years has modern inductive science been applied to mechanical invention and wrought the marvelous change in habit, environment, and necessities of men. Taken all in all, this was probably the greatest transformation suffered by the human race since man first learned to make fire. Indeed, the change from tools to machinery and, above all, from tools to machinery driven by nonhuman power, may be considered almost as momentous as the change from the unaided human hand and claw to tools. Count this gross exaggeration, if you wish; but you still will see it is nothing but sheer folly to suppose that the industrial organization of society is to find a quasi-permanent, human, and satisfying form in a few decades after the revolution has shown its results. Ultimately, it may be, society will be stabilized; but surely it will not be to-day or to-morrow. The most we have the right to demand and expect is that social re-

AMERICAN DEMOCRACY 199

arrangements will be brought on by reasonable adjustment, not by autocratic brute force; that the philosophy and spirit of democracy will enable men to work out results by agreements and accommodations and intelligent consent.

Publicity is the weapon of democracy. Not only is secrecy a source of danger, but it is in itself incompatible with popular government. How, pray, can people have opinions about things they know nothing of? And if there is no opinion, how can popular government exist at all? The openness of democratic life sometimes seems to militate against privacy, not to say secrecy. To the inquisitive onlooker we appear to direct our political affairs by mandates issued at elections, but we don't. We govern chiefly by public opinion, and if congressmen at times appear to insulate themselves from the *vulgus* and not to know what people are thinking, we are justly indignant. A democratic government cannot be an insulated government, cut off from the currents of life for two- or four-year periods. As publicity is an absolute essential, stealth and intrigue are impossible

200 STEPS IN DEVELOPMENT

derivatives from democratic philosophy. I do not mean they do not exist. I mean that they are vices gnawing at the heart of the democratic state; they are the weapons of a mean autocracy.

There is now on foot a movement for Americanizing the immigrant. Plans are laid for inculcating certain knowledge, extending the use of the English language, and developing a spirit of patriotism. Often, it seems to me, the motive of this effort is not quite clear. Is it based on some fear? Must we believe that men must be given, if only by forcible inoculation, a readiness to fight for the flag? Is it based on the assumption that we have our own *Kultur*, high above all other brands, which must be accepted if civilization be secure? If so, I am not confident of the justice, the wisdom, or the moral effects of the effort. But I am confident that social integration must be secured, if democracy survive; disintegration, intellectual separateness, differences of moral reactions on fundamental problems of living, are unsocializing and hence inconsistent with community life and action. There must be understanding,

AMERICAN DEMOCRACY 201

freedom of intercourse, interchange of ideas between man and man, or there can be no creation of a common purpose. The flag, which we may all ignorantly worship, must be the symbol, not of a pugnacious patriotism, but of the common possession of a common ideal. Democracy without community in things of the spirit is gross, material, and nevertheless unreal. America is safe as a democratic reality if there is a wide and deep devotion to a code of daily morality; if there is no commonness, waving the flag is of little value.

For this reason too we insist now on the use of the English language, not because it is better than others, not because we fear that the civilization it may carry with it is imperiled, not because of any mean nationalistic pride or envy or trepidation or enmity, but once again because communication and the creation of a public opinion which is the basis of free popular government are necessary if we would maintain and build up the thing our boys died for, the thing the masses of the plain people are praying for. The old saying, "Divide and rule," was the watchword

202 STEPS IN DEVELOPMENT

of many an autocratic system; we have the right to say to people of the would-be popular state, "Unite and rule"; you cannot possess your own government unless you as a whole people possess yourselves.

We sometimes hear that democratic government is government by the majority, or, that, on the other hand, a minority has certain rights and immunities beyond the reach of the majority. Perhaps, it is quite right to protect minorities as we have attempted to do by constitutional restraints; but neither one of these assertions expresses the philosophic content of democracy. In a free state the majority, by the nature of the state, has no right to legislate for itself alone. Fifty-one have no inherent authority to bully forty-nine; that would be only autocracy on a large and unwholesome scale. Democracy rests on duty, not on privilege, and that is the lesson for both minorities and majorities. The notion that we live in the presence of a persistent dualism of majorities and minorities, and the minorities have a shield and buckler protecting them from molestation may be partly true in

fact; but it belies the spirit of democracy if not of ever-changing life; it is in part a relic of the half-democracy of the eighteenth century and of the principle of an unchanging natural law that cannot be moved one jot or one tittle. By the implications of a real democracy, minorities and individuals should be protected by the principle of freedom, by the duty of majorities to be responsible for others and not self-seeking, by the duty of minorities to accommodate themselves to public needs.

The simple truth is that the truly popular state cannot be based on dualism, on continuous friction between fifty-one and forty-nine, on authority backed by protected privilege, or on unreasoning power supported by majority strength. Need I repeat again that democratic government rests upon agreement; that is, upon processes through which men come to common understanding? Life is not rigid; it is a series of adjustments and accommodations. A real democracy is constant rearrangement, adjustment, and assimilation. Irrespective of legal limitations, minorities must have their rights, because

they are portions of the whole and because majorities carry responsibility for others. That is the philosophy of democracy. Jefferson announced that acquiescence in the decision of majorities was the vital principle of republics, but the purpose of the majority to be right must be reasonable. That is the sum of the whole matter. Democracy is not consistent with irreconcilable minorities; they must acquiesce; and if the power of the larger number is to be guided by reason, it must come from reasoning, from discussion, from the upbuilding of a common purpose and a common life. Acquiescence is more difficult than domination: such is the lesson which the young fledgling democracies of eastern Europe must learn if they are to hold aloft on their adventurous flight. On the other hand, the tyranny of the *sansculotte* is no better than the despotism of the over-dressed.

In the Gettysburg address Lincoln appealed for a new birth of freedom. He hoped that those who died there, those that offered the last full measure of devotion, would create by their death a finer spirit for

the living. He hoped that America would go on with a fuller life consecrated to freedom and justice. But after that war came years of petty revengeful politics; and the men of America, for whom the heroes of Gettysburg perished, turned to the material tasks of a materialistic generation, to exploiting the natural resources of the continent, as if life were no more than meat or the body than raiment. In large measure they left the new birth of freedom to the none too tender care of wrangling and ambitious party leaders. It is not so easy now to shirk the responsibilities of the hour, because the West is gone; and they must not be shirked, if democracy was worth dying for. The burdens of social responsibility lie at our very doors. If we insist on putting petty politicians into office and on shunning the tasks which humanity here and in the world at large has thrust upon us, we shall shame the cause for which we fought and court disaster. Momentous as our victory in France may be, momentous in overturning Europe, in banishing autocracy, possibly even more important is the effect upon ourselves. Are

206 STEPS IN DEVELOPMENT

those conquests by that maddening reacting perversity which muddies the whole stream of history, to make us vain, nationalistic, and domineering, or is there to be a freshening of life, a clarification of character?

This war, we have asserted, is to make the world safe for democracy; but democracy can be safe only if it is democratic. The great question before the world to-day is whether America will play whole-heartedly the role of a democratic nation. That is the center of the whole world-problem. Democracy as a spirit, a spirit partly begotten and greatly enlarged and strengthened by a theory of political organization, has shown itself masterful, conquering, almost, it would seem, irresistible. Thrones have been overturned, the secret chancelleries of nations have been opened to the gaze of an irreverent public, dynasties have disappeared, willful autocratic overlords have fled into the darkness. From the days when America, acknowledging a decent respect for the opinion of mankind, announced that governments obtain their just powers from the consent of the governed, the mills of the gods have been

grinding not slowly but exceeding fine. It is easy enough for mole-eyed materialists to talk of territories and markets and economic penetrations and mailed fists and national armies and tribal gods, but the world has been changed under the hammering insistence of a principle of human life. Once and again, and most plainly last of all, democracy has risen in its armed might and hurled itself against its enemy. But its victories have on the whole been silent victories, untroubled by the din of physical warfare, unsullied by human sacrifice. The real struggle has been continuous, unintermitting, most real when most unnoticed. Democracy overthrew autocracy because it was life fighting with death, or youth with age. Autocracy was beaten in the war because it was beaten as a principle of living as a reality, before the war began. Wars only register conquests. Men and women that can read and think should see this thing plainly.

And now that America has won, what will she do—America, who, cherishing, enlarging, and upbuilding the principles of British freedom for which the men of Britain had them-

208 STEPS IN DEVELOPMENT

selves struggled and suffered; America, who, more than any other nation, unless it be the old and the regenerated England, is responsible for this spread of democracy through the last century and a half—what will America do? Well, we are sometimes told she will now live unto herself, scorn companionship, flout cooperation, shield herself from duty, assume irresponsibility. Such words would be funny if they were not so serious; all the more serious because they come from men who honestly think they are advocating actual American life and American democracy. For this all means that we shall abjure democracy and refuse to act it out. We gave, forsooth, we gave our boys for revenge, to punish Germany, to ward off fear from our coasts, not to clarify and cleanse human life; we sent those two million young fellows across the sea that we might be safe to lead an irresponsible existence, sharking for our own booty, heedless, content—autocratic, because uncompanionable, superior, inaccessible, self-willed.

Some things even the blind should see. We cannot act one thing and be another. If we

would be democratic, we must act the democrat. In the world of international affairs we must maintain our faith, take courage from our belief in the hearts of men, rely on enlightened public opinion and strive to enlighten it and our own minds, trust to the weapons of publicity as the foe of stealth and intrigue and hidden malice. We must cherish companionship, recognize life as a series of readjustments and accommodations, shoulder responsibilities, cast out mean fear even though it be called danger to the Monroe Doctrine, practice friendliness, and be high-hearted even as our boys were high-hearted and ready for service and death. "Small minds," said Burke, "and great empires go ill together." America if it would be great must be big-minded, magnanimous, and spiritually strong. If we deny ourselves in the wide currents of the world, refuse to act the democrat, decline to participate in a world-arrangement based on consent and agreement, pride ourselves on a puny-souled invulnerability, think we can shut ourselves off by a hedge of self-imposed divinity, we don't deserve to live as a democracy. We

210 STEPS IN DEVELOPMENT

shall not be a democracy. We shall have already fallen a prey to the cancer of autocratic irresponsibility, to the corroding acids of self-will. We cannot be inwardly democratic and outwardly autocratic—inwardly hope-full, faith-full, friendly, frank, and humane, outwardly repelling, unsocial, sullen, superior, distrustful, forceful. For the revivification of its own soul, the nation must act on the moral tenets of its own accepted philosophy or lose it, sear its own spirit, deaden its own life. As Germany attempted to play the role of the autocrat because the nation was permeated with the philosophy of autocracy, America must play the democrat if she is filled with the spirit and the philosophy of democracy.

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